

123

Kina (73)



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 Countries & Regions | International Topics & Issues | History, Education & Culture  
 Business Center | Other Services | Employment

## China (Includes Hong Kong and Macau)

Country Reports on Human Rights Practices - 2001  
 Released by the Bureau of Democracy, Human Rights, and Labor  
 March 4, 2002



(Note: Also see the report for Hong Kong and the report for Macau.)

The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) is the paramount source of power. At the national and regional levels, Party members hold almost all top Government, police, and military positions. Ultimate authority rests with members of the Politburo. Leaders stress the need to maintain stability and social order and are committed to perpetuating the rule of the CCP and its hierarchy. Citizens lack both the freedom peacefully to express opposition to the Party-led political system and the right to change their national leaders or form of government. Socialism continues to provide the theoretical underpinning of national politics, but Marxist ideology has given way to economic pragmatism and economic decentralization has increased the authority of local officials. The Party's authority rests primarily on the Government's ability to maintain social stability, appeals to nationalism and patriotism, Party control of personnel, media, and the security apparatus, and the continued improvement in the living standards of most of the country's citizens. The Constitution provides for an independent judiciary; however, in practice, the Government and the CCP, at both the central and local levels, frequently interfere in the judicial process, and the Party and the Government direct verdicts in many high-profile political cases.

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army, and the state judicial, procuratorial, and penal systems. Security policy and personnel were responsible for numerous human rights abuses.

The country's transition from a centrally planned to a market-based economy continues. Though state-owned industry remains dominant in key sectors, the Government has privatized many small and medium state-owned enterprises (SOEs) and allowed private entrepreneurs increasing scope for economic activity. A 1999 constitutional amendment officially recognized the role of the private sector in the economy, and private firms now contribute 30 to 40 percent of yearly gross domestic product (GDP) growth. On July 1, in a move criticized by hard-line Communists, CCP Secretary General Jiang Zemin indicated that the Chinese Communist Party should be open to individuals, including entrepreneurs, regardless of their wealth. The country has large industrial and agricultural sectors and is a leading producer of coal, steel, textiles, and grains. Major exports include electronic goods, toys, apparel, and plastics. The country completed all of the preconditions for accession to the World Trade Organization during the year. Trade and foreign investment are helping to modernize an already rapidly growing economy. The official GDP growth rate through the first half of the year was 7.3 percent; the population is approximately 1.3 billion.

The economy faces many challenges, including reform of SOEs and the banking system, growing unemployment and underemployment, the need to construct an effective social safety net, and regional economic disparities. In recent years, between 80 and 130 million persons voluntarily have left rural areas to search for better jobs and living conditions in the cities (the so-called "floating population"), where they do not enjoy the same economic and social benefits as urban residents. In the industrial sector, downsizing in SOEs continued, bringing the number of jobless urban workers to an estimated 15 million in an urban workforce of roughly 200 million. Industrial workers throughout the country continued to organize sporadically to protest layoffs and to demand payment of overdue wages and benefits. Income gaps between coastal and interior regions, and between urban and rural areas, continued to widen. Urban per capita income in 2000 was \$759 (6280 RMB) and grew by 6.4 percent over the previous year. Rural per capita income was \$278 (2300 RMB), an official growth rate of 4 percent. However, rising urban living standards, greater independence for entrepreneurs, and the expansion of the nonstate sector have increased workers' employment options and have significantly reduced state control over citizens' daily lives. The total number of citizens living in absolute poverty continues to decline. According to official statistics, 30 million persons live in poverty; the World Bank, using different criteria, estimates the number at 100-150 million persons.

The Government's human rights record throughout the year remained poor and the Government continued to commit numerous and serious abuses. Authorities still were quick to suppress any person or group, whether religious, political, or social, that they perceived to be a threat to government power, or to national stability, and citizens who sought to express openly dissenting political and religious views continued to live in an environment filled with repression. Overall, government respect for religious freedom remained poor and crackdowns against unregistered groups, including underground Protestant and Catholic groups, Muslim Uighurs, and Tibetan Buddhists continued. Several leaders of the unregistered South China Church were arrested in July and subsequently sentenced to death; some of those sentences were suspended and some were appealed. Also in July, authorities arrested Hong Kong businessman Li Guangqiang and charged him with smuggling for bringing Bibles into the country. Abuses included instances of extrajudicial killings, torture

and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. Conditions at most prisons remained harsh. In many cases, particularly in sensitive political cases, the judicial system denies criminal defendants basic legal safeguards and due process because authorities attach higher priority to maintaining public order and suppressing political opposition than to enforcing legal norms or protecting individual rights. The Government infringed on citizens' privacy rights. The Government continued to implement its sometimes coercive policy to restrict the number of children a family may have. The Government maintained tight restrictions on freedom of speech and of the press and continued its efforts to control and monitor the Internet; self-censorship by journalists continued. The Government severely restricted freedom of assembly and continued to restrict freedom of association. The Government continued to restrict freedom of religion and intensified controls on some unregistered churches. The Government continued to restrict freedom of movement. Citizens do not have the right peacefully to change their Government. The Government does not permit independent domestic nongovernmental organizations (NGO's) to monitor publicly human rights conditions. Violence against women (including imposition of a sometimes coercive birth control policy, including instances of forced abortion and forced sterilization); prostitution; discrimination against women; abuse of children; and discrimination against persons with disabilities and minorities are all problems. Particularly serious human rights abuses persisted in Tibet and in Xinjiang, where security tightened. The Government continued to restrict tightly worker rights, and forced labor in prison facilities remained a serious problem. Child labor exists and continues in rural areas as adult workers leave for better employment opportunities in urban areas. Trafficking in persons is a serious problem.

Arbitrary arrest and detention also remained serious problems. Because the Government tightly controls information, it is not possible accurately to determine the total number of persons subjected to new or continued arbitrary arrest or detention. According to international press reports, over 200,000 persons are serving sentences, not subject to judicial review, in reeducation-through-labor camps. Many thousands more remain incarcerated in prisons. The Government denied that it holds any political or religious prisoners, and asserted that authorities detained persons not for their political or religious views, but because they violated the law. However, the authorities continued to detain citizens for political and religious reasons. During the year, the Government used laws on subversion and endangering state security to threaten, arrest and imprison a wide range of political, religious, and labor activists and dissidents, including former Government officials, NGO organizers, activists for artistic freedom, and independent advocates for legal reform that directly and publicly opposed the Government and the CCP. After 2 years of intense repression marked by propaganda campaigns, beatings, and imprisonment, thousands of organizers and adherents of the banned Falun Gong (FLG) movement were in reeducation-through-labor camps or in prison, most without benefit of formal judicial process. Various sources reported that over 200 Falun Gong practitioners died in detention as a result of torture or mistreatment.

In 2000 officials stated that there were approximately 1,300 individuals in prisons serving sentences under the Law Against Counterrevolutionary Activity, a crime that no longer exists; many of these persons were imprisoned for the non-violent expression of their political views. According to Amnesty International (AI) 211 persons remain in prison for their activities during the June 1989 Tiananmen Square demonstrations. Since December 1998, at least 30 leaders of the China Democracy Party (CDP) have been given long prison sentences on subversion charges.

The authorities released a few political prisoners before their terms were over, notably Zhang Jie, Han Lifa, Guo Haifeng, Cao Maobing, and Ma Zhe. Others, such as CDP activist Zhou Yongjun, who was released in March, were released after completing their sentences. At year's end several thousand political prisoners—including Bishop An Shuxin, Cai Guihua, Han Chunsheng, Li Bifeng, Liu Jingsheng, Qin Yongmin, Shen Liangqing, Zha Jianguo, Wang Youcai, Xu Guoxing, Fang Jue, Xu Wenli, Zhang Lin, Zhang Shanguang, Zhao Changqing, Abbot Chadrel Rinpoche, Jigme Sangpo, and Ngawang Sangdrol (see Tibet addendum)—remained imprisoned or under other forms of detention for the peaceful expression of their political, social, or religious views. Some of those who completed their sentences and were released from prison were kept under surveillance and prevented from taking employment or otherwise resuming normal lives. Authorities also harassed and monitored the activities of dissident's relatives.

In April the Government began a national "strike-hard" campaign against crime. However, the campaign also has targeted some dissidents, separatists, and underground church members. The campaign has been vigorously carried out in Xinjiang, where those deemed to be "splittists" by the Government are targeted. The "strike-hard" campaign has been characterized by roundups of suspects and mass sentencing rallies. By the third quarter of the year, domestic press stories indicated that over 2,000 persons had been executed as part of the campaign. The Government regarded the number of death sentences it carried out as a state secret.

Unapproved religious groups, including Protestant and Catholic groups and members of nontraditional religious groups, continued to experience varying degrees of official interference, harassment, and repression. The Government continued to enforce regulations requiring all places of religious activity to register with the Government or come under the supervision of official, "patriotic" religious organizations. In some areas, authorities guided by national policy made strong efforts to control the activities of unapproved Catholic and Protestant churches; religious services were broken up and church leaders or adherents were harassed, and, at times, fined, detained, beaten, and tortured. At year's end, some religious adherents remained in prison because of their religious activities. In some regions with high concentrations of Catholics, relations between the Government and the underground church loyal to the Vatican remained tense. Relations varied greatly, with parishioners worshipping together in some districts and deep rifts in the Catholic community in other areas. In other regions, registered and unregistered churches were treated similarly by the authorities and reported little or no day-to-day interference in their activities. The human rights situation in Tibet remained poor, as the Government continued its campaign to reeducate monks and nuns with sympathies to the Dalai Lama. However, the enforcement of tight restrictions imposed on Tibetan Buddhists in the Tibet Autonomous Region in 2000 eased during the year. Local authorities forcibly relocated thousands of Tibetan Buddhist nuns and monks from the Serthar Tibetan Buddhist Institute in western Sichuan Province.

The Government strictly regulates the establishment and management of publications, controls the broadcast media, censors foreign television broadcasts, and at times jams radio signals from abroad. During the year, several publications were shut down or disciplined for publishing material deemed objectionable by the Government, and journalists, authors, and researchers were harassed, detained, and arrested by the authorities; several were fired. Nonetheless, journalists exposed a number of coverups and instances of official corruption during the year. The Government loosened up controls over cable TV, allowing subscribers in a number of cities to have uncensored access to foreign news programming. Despite the continued expansion of the Internet in the country, the Government maintained its efforts to monitor and control content on the Internet. Several new regulations regarding the Internet were issued, and many Web sites, including politically sensitive Web sites and foreign news Web sites, were shut down or blocked by the authorities.

The judiciary is not independent. During the year, the Government took steps to correct systemic weaknesses in judicial procedures and to make the system more accountable to public scrutiny; however, new regulations and policies passed in the past few years have not brought the country's criminal procedures into compliance with international standards, and the law routinely is violated in the cases of political dissidents and religious leaders and adherents. Nonetheless, the percentage of persons acquitted in criminal trials continued to grow and the Government took measures to make legal representation more affordable for the poor. The Government also remained open to U.N. organizations, Western governmental organizations, and nongovernmental organizations that assist in reforming its judiciary. Some lawyers, law professors, and jurists continued publicly to press for a transparent system of discovery, abolition of coerced confessions, a presumption of innocence, an independent judiciary, the right to remain silent, and improved administrative laws giving citizens recourse against unlawful acts by the Government.

## RESPECT FOR HUMAN RIGHTS

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

#### a. Arbitrary and Unlawful Deprivation of Life

The official press reported a number of extrajudicial killings, but no nationwide statistics were available. During the year, deaths in custody due to police use of torture to coerce confessions from criminal suspects continued to be a problem. According to a number of credible sources, scores of FLG adherents died while in police custody (see Section 2.c.). FLG adherent Zhang Shengfan was dragged from his home by local authorities in Shuangcheng City, Heilongjiang province in June. Three days later, he was declared dead at a local hospital. His family was not allowed to view the body, order an autopsy, or bury his remains. Local officials disposed of the body in an undisclosed location. Reliable reports from Western journalists allege that local officials in Shandong's Weifang City were responsible for beating to death FLG adherents at the rate of about one per month.

There continued to be numerous executions carried out after summary trials. Such trials often took place under circumstances where the lack of due process or a meaningful appeal bordered on extrajudicial killing. As part of the nationwide "strike hard" campaign, more than 2,000 executions were carried out after summary trials. The Government regarded the number of death sentences it carried out as a state secret. According to domestic press reports, on April 11 in Harbin, Heilongjiang province, 23 suspects were sentenced to death in front of 5,000 spectators. Seven of the condemned were immediately taken to an execution ground where they were shot.

#### b. Disappearance

There were no new reports of disappearances. However, the Government has not provided a comprehensive, credible accounting of all those missing or detained in connection with the suppression of the 1989 Tiananmen demonstrations.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture; however, police and other elements of the security apparatus employ torture and degrading treatment in dealing with some detainees and prisoners. Human rights monitors reported a number of unconfirmed but credible cases of torture. The Prison Law prohibits prison guards extorting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. Senior officials acknowledge that torture and coerced confessions are chronic problems, but have not taken sufficient measures to end these practices. Former detainees and the press reported credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse. According to credible reports, Huang Qi was bound hand and foot and beaten by police in Chengdu while they tried to force him to confess to subversion. He lost several teeth and remains in poor health. Huang was the operator of an Internet site that posted information about missing persons, including students who disappeared in June 1989 in Tiananmen Square. There were numerous credible reports of abuse of FLG practitioners by the police and other security personnel, including police involvement in beatings, detention under extremely harsh conditions, and torture. Persons detained pending trial were particularly at risk during pretrial detention due to systemic weaknesses in the legal system or lack of implementation of the revised Criminal Procedure Law. Reports of torture increase during periodic "strike hard" campaigns in which police are encouraged to achieve quick results against crime, and such reports increased during the current "strike-hard" campaign, which began in April.

During the year, deaths in custody due to police use of torture to coerce confessions from criminal suspects

continued to be a problem. According to press reports a 38-year-old handicapped factory worker from Shuangcheng, in the northeastern province of Heilongjiang, was dragged from his home and died in custody after being beaten by police. His family allegedly was not allowed to view the body or have an autopsy performed. The location of his remains is unknown (see Section 1.a.).

In June the influential magazine *Outlook Weekly* reported that police and investigators still routinely used torture to extract confessions. To curb the practice, the magazine called for the right to remain silent; the right for suspects to give direct testimony in their own trials; and the right for a defense attorney to be present during police questioning. In September 2000, the National People's Congress (NPC) carried out an independent study of the use of torture in Tianjin, Inner Mongolia, Heilongjiang, Zhejiang, Hebei, and Shaanxi between 1997 and 1999. The group discovered 221 cases of confessions coerced by torture, which had resulted in the deaths of 21 criminal suspects. Commenting on the study group's findings in December 2000, Hou Zongbin, chairman of the NPC's Judicial Affairs Committee, stated that while the 1997 Criminal Procedure Law had brought reforms to the criminal justice system, torture remained a systemic problem. During the year, officials in Liaoning Province began a pilot program instituting the right to remain silent in criminal trials as a way to combat torture.

There were many reports of persons, especially FLG adherents, sentenced to mental hospitals for expressing either their political or religious beliefs.

There were reports during the year that police sometimes used excessive force to break up demonstrations. Police also beat persons being arrested and persons in detention. Eyewitnesses have reported frequent abuse of FLG protesters as they were being detained.

Conditions in penal institutions for both political prisoners and common criminals generally are harsh and frequently degrading. Forced labor is common. Conditions in administrative detention facilities (including reeducation-through-labor camps and custody and repatriation centers) are similar to those in prisons. Prisoners and detainees often are kept in overcrowded conditions with poor sanitation, and their food often is inadequate and of poor quality. Many detainees reportedly rely on supplemental food and medicines provided by relatives; however, some prominent dissidents reportedly are not allowed to receive supplemental food or medicine from relatives. According to released political prisoners, it is standard practice for political prisoners to be segregated from each other and placed with common criminals. There are credible reports that common criminals have beaten political prisoners at the instigation of guards. Guards in custody and repatriation centers reportedly rely on "cell bosses" to maintain order; these individuals frequently beat other detainees and sometimes steal their possessions. The treatment of some prominent political prisoners, whose cases regularly are raised with authorities, sometimes improves. The 1994 Prison Law was designed, in part, to improve treatment of detainees and increase respect for their legal rights. The Government's stated goal is to convert one-half of the nation's prisons and reeducation-through-labor camps into "modernized, civilized" facilities by the year 2010. According to credible sources, persons held in these "model" prisons receive better treatment than those held in other prison facilities.

Adequate, timely medical care for prisoners continues to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment if they become ill. Credible reports indicate that as part of the "strike hard" campaign, jails have tightened access to medical parole. For example, reports indicate that 57 inmates died at Liaoning's Province's Tieling prison during the year compared to ten deaths in 2000. Seventy inmates had been released from Tieling on medical grounds in 2000, but only two were released during the year. Nutritional and health conditions can be grim. At year's end, political prisoners who reportedly had difficulties in obtaining medical treatment, despite repeated appeals on their behalf by their families and the international community, included: Xu Wenli, Gao Hongmin, Qin Yongmin, Wang Youcai, Chen Lantao, Chen Meng, Fang Jue, Hu Shigen, Kang Yuchun, Liu Jingsheng, Rebiya Kadeer, Jigme Sangpo, Ngawang Sangdrol, Wang Guoqi, and Zhang Shanguang. Ngawang Choephel was incarcerated in a facility near Chengdu in Sichuan Province throughout the year. According to government officials, he suffered from a variety of ailments, including digestive, urinary, kidney, and liver problems. Zhang Shanguang, who is serving a 10-year sentence for disclosing news of labor demonstrations to Radio Free Asia, is suffering from serious tuberculosis. Fang Jue suffers from leg and back problems; Xu Wenli has suffered from hepatitis. Hua Di, a Stanford researcher, was sentenced to 10 years in prison on charges of revealing secrets of the country's missile program. He is suffering from cancer and was denied release on medical parole in April. Prison officials in Xinjiang have not allowed family members of businesswoman and prominent Uighur activist Rebiya Kadeer to bring her medicine for heart disease since her arrest in August 1999. She is said to be in poor health, suffering from painful feet, blurred vision, and impaired hearing. There also are allegations that she has been abused physically. Officials reportedly have denied repeated requests for her to be hospitalized.

Forced labor in prisons and reeducation-through-labor camps is common. At one camp in the western part of the country, inmates are forced to work up to 16 hours per day breaking rocks or making bricks, according to credible reports. There were several deaths from overwork, poor medical care, and beatings by guards in 2000.

The Government does not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remain largely inaccessible to international human rights organizations. However, foreign delegations have been allowed to visit "model" prisons. The Government continued its unofficial dialog on human rights and prisoner issues with a foreign-based human rights group. During the year, officials accepted lists from this group of several hundred names of political detainees, and provided detailed information on more than 50 cases, including several who were released prior to the completion of their sentences. The group's executive director visited the Tianjin Prison, a model facility, and Beijing Number Two Prison, a maximum security prison that holds most persons convicted of political offenses in Beijing. Talks with the International Committee of the Red Cross (ICRC) on an agreement for ICRC access to prisons remained stalled.

## d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention remain serious problems. The law permits the authorities in some circumstances to detain persons without arresting or charging them, and persons may be sentenced administratively to up to 3 years in reeducation-through-labor camps and other similar facilities without a trial. Because the Government tightly controls information, it is impossible to determine accurately the total number of persons subjected to new or continued arbitrary arrest or detention. Official government statistics report that in 1997 there were 230,000 persons in reeducation-through-labor camps. According to a March article by the official news agency, there are 300 reeducation-through-labor camps that have held over 3.5 million prisoners since 1957. It has been estimated that as many as 1.7 million persons per year were detained in a form of administrative detention known as custody and repatriation before 1996; the number of persons subject to this form of detention reportedly has grown since that time. According to reliable reports, the Government confined some FLG adherents, and some political, religious, and labor activists and dissidents to psychiatric hospitals; and has forced some to take drugs or submit to electric shock treatments. Another labor dissident, Wang Miaogen from Shanghai, who disappeared in 1999, is believed to be held in a psychiatric hospital. Although the crime of being a "counterrevolutionary" was removed from the criminal code in 1997, Western NGO's estimate as many as 1,300 persons remain in prison for the crime, and another 600 are serving sentences under the State Security Law, which covers the same crimes as the repealed section on "counterrevolution."

Amendments to the Criminal Procedure Law abolished an often-criticized form of pretrial detention known as "shelter and investigation" that allowed police to detain suspects for extended periods without charge. Nonetheless, in some cases, police still unilaterally can detain a person for up to 37 days before releasing him or formally placing him under arrest. Once a suspect is arrested, the revised law allows police and prosecutors to detain him for months before trial while a case is being "further investigated." Few suspects are released on bail pending trial. Under the Criminal Procedure Law, detained criminal suspects, defendants, their legal representatives, and close relatives are entitled to apply for a guarantor to enable the suspect or defendant to await trial out of custody. In practice, officials usually do not agree. The Criminal Procedure Law also stipulates that authorities must notify a detainee's family or work unit of his detention within 24 hours. However, in practice, timely notification remains a serious problem, especially in sensitive political cases. Under a sweeping exception, officials need not provide notification if it would "hinder the investigation" of a case. Police continue to hold individuals without granting access to family or a lawyer, and trials continue to be conducted in secret.

A major flaw of the Criminal Procedure Law is that it does not address the reeducation-through-labor system. Defendants legally are entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law. Persons can gain a reduction in, or suspension of, their sentences after appeal; appeals usually are not successful, however, because of problems such as short appeal times and inadequate legal counsel, which weaken the effectiveness of the law in preventing or reversing arbitrary decisions. There have been cases of individuals successfully appealing their reeducation sentences through the courts, though the exact number of such cases is unknown.

The Criminal Procedure Law also does not address custody and repatriation, which allows the authorities to detain persons administratively without trial to "protect urban social order." Persons who may be detained under this provision include the homeless, the unemployed, petty criminals, and those without permission to live or work in urban areas; such persons may be returned to the locality in which they are registered. If the location to which they are to be repatriated cannot be determined, or if they cannot be repatriated for financial reasons, such persons may be sent to "resettlement farms." Those unable to work may be sent to "welfare centers." Until they are repatriated, those detained may be held in custody and repatriation centers, and may be required to pay for the cost of their detention and repatriation by working while in detention. Relatives and friends of detainees in these centers reportedly often are able to secure a detainee's release through the payment of a fee. Provincial regulations on custody and repatriation in some cases have expanded the categories of persons who may be detained. In Beijing, for example, those who may be detained specifically include the mentally ill and mentally disabled, and "those who should be taken into custody according to Government regulations." Many other persons are detained in similar forms of administrative detention, known as custody and education (for prostitutes and their clients) and custody and training (for minors who have committed crimes). Persons reportedly may be detained for long periods under these provisions, particularly if they cannot afford to pay for their release.

According to researchers, the country has 20 "ankang" institutions, directly administered by the Ministry of Public Security, in which dissidents and activists are housed with mentally ill patients. The regulations for committing a person into an ankang facility are not clear. Credible reports indicate a number of political or trade union dissidents, "underground" religious believers, and FLG adherents are incarcerated in such facilities. Wang Wanxing, who protested in Tiananmen Square in 1992, continued to be held in a psychiatric hospital on the outskirts of Beijing (see Section 1.c.). In late 2000, labor activist Cao Maobing was detained and admitted against his will to a psychiatric hospital in Yanchong, Jiangsu province, where he reportedly also was forced to take medication against his will (see Section 6.a.). However, Cao was released in July. According to reliable reports, the Government confined hundreds of FLG adherents to psychiatric hospitals.

The campaign against the China Democracy Party, a would-be opposition party that began in 1998, continued during the year. Scores of CDP leaders, activists, and members have been arrested, detained, or confined as a result of this campaign. Since December 1998, at least 30 core leaders of the CDP have been given severe punishments on subversion charges. In what some experts have described as an attempt by authorities to tarnish the public image of the democracy movement, officials have accused a number of democracy activists of soliciting prostitutes, distributing pornographic videos, petty theft, or other crimes unrelated to their political activities. In March the vice-chairman of the CDP's Hubei province branch, Lu Xiaolan, was detained as he tried to organize a CDP meeting in Wuhan. In late December 2000, Shanghai-based Cai Guihua and Fu

Shenping chose to go into exile after being harassed by the police. The two each had served more than 1 year in prison for supporting the CDP in Shanghai. In December 2000, CDP activists Wang Zechen and Wang Wenjiang reportedly were sentenced in Anshan to 6 years and 4 years in prison, respectively, on charges of subverting state power. The two were arrested in June 1999.

The authorities also used laws on subversion, endangering state security, and common crimes to arrest and imprison a wide range of political dissidents, activists, and others. After being released from prison in June, 2000, Li Wangyang was rearrested on subversion charges in May, and sentenced to 10 years in prison in September for "incitement to subvert state power" after demanding the authorities pay for back, heart, and lung ailments he contracted while in prison. Li had served 11 years in prison for his role in presiding over the Shaoyang Workers Autonomous Federation, a Tiananmen-era free trade union. Six other persons were detained in the incident, including Li's sister, who was sentenced to 3 years in a labor camp for helping Li publicize his demands. In September 2000, a court in Hebei sentenced the cofounder of the environmental NGO China Development Union, Qi Yanchen, to 4 years in prison for subversion for writing that the Government would have to introduce political reform in order to avoid widespread unrest. The article at issue appeared in the prodemocracy e-mail newsletter VIP Preference (see Sections 1.f. and 2.a.).

Police sometimes detained relatives of dissidents (see Section 1.f.).

Persons critical of official corruption or malfeasance also frequently were threatened, detained, or imprisoned.

In January, Supreme People's Court President Xiao Yang stated that political dissent and outlawed religions would be among the top targets of a stepped-up crackdown by authorities during the year. In April the Government began a national "strike-hard" campaign against "violent and organized" crime. However according to press reports, the campaign also has targeted some dissidents, separatists, and underground church members. Local police reportedly were ordered to increase the number of arrests and judges were instructed to accelerate legal processing and sentencing. The campaign has been characterized by large-scale sentencing rallies and parades of condemned prisoners through the streets of major cities, followed by public executions. For example, in April local newspapers in Sichuan province reported that over 3000 criminals were sentenced publicly in 123 rallies held across the province. Of those more than 900 were "severely punished," a category that includes the death sentence and lengthy prison terms (see Section 1.d.). By the third quarter of the year, press stories indicated that over 2,000 persons had been executed as part of the campaign. The Government regarded the number of death sentences it carried out as a state secret.

Minority activists continued to be targets of the police. As part of the nationwide "strike hard" campaign, "splittists" or separatists, have been singled out. Xinjiang official Abulahat Abkurixit told the Xinjiang Legal newspaper in April that authorities in Xinjiang would use the "strike hard" campaign to strike at Muslim separatists and illegal religious activities. As part of the campaign, local courts in Xinjiang have meted out death sentences or long prison terms to a number of persons accused of separatist activity. In early 2000 a court sentenced Uighur businesswoman Rebiya Kadeer to 8 years in prison for passing "state intelligence" information to foreigners. The "state intelligence" she was accused of attempting to pass consisted of newspaper articles published in the official press and a list of individuals whose cases had been handled by judicial organs. Police arrested Kadeer, her son, and her secretary while they were on their way to meet a visiting foreign delegation in August 1999.

Journalists also were detained or threatened during the year, often for reporting on subjects that met with the Government's or the local authorities' disapproval (see Section 2.a.). In July 2000 Zhuhai police arrested five journalists, including two from Hong Kong and two from Macau, who were attempting to report on peasant protests against a land redevelopment scheme; local police arrested Ma Xiaoming, a Shaanxi television station reporter who had reported on a case involving 12,000 peasants who brought a lawsuit against their township government.

Local authorities used the Government's anticult campaign to detain and arrest large numbers of religious practitioners. For example, in December 2000, four members of the Zhong Gong qigong group were charged by Nanjing authorities with "inciting subversion of the state's political power" and sentenced to between 2 and 4 1/2 years in prison.

The State Compensation Law provides a legal basis for citizens to recover damages for illegal detentions. Although many citizens remain unaware of this law, there is evidence that it is having a growing, if still limited, impact. Throughout the year, the official press published numerous articles to raise public awareness of recent laws meant to enhance the protection of citizens' rights, including the Criminal Procedure Law, the State Compensation Law, the Administrative Procedure Law, and others. Many citizens have used the State Compensation Law during the year to sue for damages.

There were no reports that the Government exiled citizens. The Government continued to refuse reentry to citizens who were dissidents and activists. The Government's refusal to permit some former reeducation-through-labor camp inmates to return to their homes constitutes a form of internal exile.

#### e. Denial of Fair Public Trial

The Constitution states that the courts shall, in accordance with the law, exercise judicial power independently; however, in practice, the judiciary receives policy guidance from both the Government and the Communist Party, whose leaders use a variety of means to direct courts on verdicts and sentences in sensitive cases. At both the central and local levels, the Government and the CCP frequently interfere in the judicial system and dictate court decisions. Corruption and conflicts of interest also affect judicial decisionmaking. Judges are

appointed by the People's Congresses at the corresponding level of the judicial structure, which can result in local politicians exerting undue influence over the judges they appoint. State-run media have published numerous articles calling for an end to such "local protectionism" and for the development of a judiciary independent of interference by officials.

The Supreme People's Court (SPC) stands at the apex of the court system, followed in descending order by the higher, intermediate, and basic people's courts. There are special courts for handling military, maritime, and railway transport cases.

Corruption and inefficiency in the judicial system are endemic. In 2000 the SPC issued new regulations tightening conflict of interest guidelines for judges. Judges who violate prohibitions against accepting money or other gifts from litigants or who meet privately with litigants may be found guilty of malpractice under the new regulations. Under these regulations, 6,759 judges recused themselves from cases during 2000. Other regulations banned former judges from trying cases in their old courtrooms. Likewise, the Procuratorate announced 10 new rules designed to minimize corruption in and to foster cost-consciousness among the procuratorates. It also announced that it would select candidates for some 7,200 vacancies through a system of national examinations. In an attempt to reduce pretrial corruption, early in 2000 Beijing courts set up a new office to handle pretrial procedures previously handled by judges. Under the new system, parties have more difficulty influencing judges because they would no longer have advance notice of who the judge in a given case is to be. The SPC also implemented a self-examination and responsibility system to hold presidents of higher people's courts responsible for the actions of their subordinates. During the year, the SPC punished 1,292 judges for violating Party or administrative regulations, while 46 were prosecuted for violating the law. The Supreme People's Procuratorate punished 494 officers during the year, 54 of which were criminally responsible for malfeasance. Five provincial-level Procurators were summoned to Beijing to account for wrongdoing. The SPC found 17,931 government officials guilty of corruption or of accepting bribes during the year. During 2000, 1,450 court employees were punished for misconduct. The People's Supreme Court, Procuratorate, and the MOJ jointly released a notice on December 31, stipulating that only those who pass an exam and obtain a "Certificate of Legal Profession" may serve as a judge or a prosecutor, and may apply for a lawyer's license. The regulation is to enter into force on January 1, 2002.

The Government also took steps to correct systemic weaknesses in the judicial system and to make it more transparent and accountable to public scrutiny. The law requires that all trials be held in public; however, in practice, many trials are not. In 1999 the Supreme People's Court issued regulations requiring all trials to be open to the public, except for those involving state secrets, personal privacy, or minors; divorce cases in which both parties request a closed trial; and cases involving commercial secrets. Several courts reportedly opened their proceedings to the public. Under the new regulations, "foreigners with valid identification" are to be allowed the same access to trials as citizens. The legal exception for cases involving state secrets, privacy, and minors has been used to keep politically sensitive proceedings closed to the public and closed even to family members in some cases. During the year, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as "state secrets" cases, thus rendering them closed to the public.

Since 1998 many trials have been broadcast, and court proceedings have become a regular television feature. In 2000 courts in Shanghai became the first to publish verdicts on the Internet. According to official statistics, the courts nationwide heard 539,000 criminal cases in 1999, an increase of 12.27 percent over 1998, and sentenced more than 600,000 offenders, up 14.02 percent from 1999. However, although convictions were up 6.21 percent in 2000, acquittals were up over 12 percent in 2000 as compared to 1999. The SPC released statistics showing that judicial entities at all levels throughout the country acquitted 6,617 defendants in 2000 due either to lack of evidence or by concluding the charges filed did not constitute a crime (up from 5,878 persons in 1999).

Police and prosecutorial officials often ignore the due process provisions of the law and of the Constitution. For example, police and prosecutors can subject prisoners to severe psychological pressure to confess, and coerced confessions frequently are introduced as evidence. In March 2000, the top prosecutor, Procurator General Han Zhubin, admitted that abuses such as using torture to extort confessions, extorting favors from suspects, and nepotism remained serious problems. In 1999 Han's office received 812,821 complaints; 342,017 were related to prosecutors. In 2000, the last year for which statistics are available, authorities arrested 715,833 criminal suspects and prosecuted 708,836. Courts sentenced more than 640,000 persons. The Criminal Procedure Law forbids the use of torture to obtain confessions, but one weakness of the law is that it does not expressly bar the introduction of coerced confessions as evidence. Traditionally, defendants who failed to show the correct attitude by confessing their crimes received harsher sentences. The conviction rate in criminal cases approaches 90 percent, and trials generally are little more than sentencing hearings. In practice, criminal defendants only are assigned an attorney once a case has been brought to court; some observers have noted that at this point, it is too late for an attorney to assist a client in a meaningful way, since the verdict often has been decided already. The best that a defense attorney generally can do for a client is to get a sentence mitigated. In most politically sensitive trials, the courts handed down guilty verdicts immediately following proceedings that rarely lasted more than several hours. There is an appeals process, but appeals rarely reverse verdicts.

The lack of due process is particularly egregious in death penalty cases. There are 65 capital offenses. They include financial crimes such as counterfeiting currency, embezzlement, and corruption. Persons may be sentenced to death for other property crimes as well. A higher court nominally reviews all death sentences, but the time between arrest and execution is often days and sometimes less, and reviews consistently result in the confirmation of sentences. Minors and pregnant women are expressly exempt from the death sentence, and only those theft cases involving banks or museums warrant capital punishment. The "strike hard" campaign, begun in April, has been characterized by mass arrests, lack of due process and summary public executions. Since the campaign began, press stories indicate that over 2,000 persons have been executed as part of the campaign (see Section 1.d.).

The revised Criminal Procedure Law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation. However, police often use loopholes in the law to circumvent a defendant's right to counsel, and political activists in particular still have significant problems obtaining competent legal representation of their own choosing. In some cases, defendants and lawyers in politically sensitive cases reportedly have not been allowed to speak during trials. Criminal defense lawyers frequently have little access to their clients or to evidence to be used during the trial. In December 2000, Hou Zongbin, chairman of the NPC's Judicial Affairs Committee, made special mention of the difficulties defense lawyers faced in meeting with their clients, accessing court files or having judges hear their petitions. The amended law also falls short of international standards in other respects. For example, it has insufficient safeguards against the use of evidence gathered through illegal means such as torture. Its appeals process fails to provide sufficient avenue for review, and there are inadequate remedies for violations of defendants' rights. The police still unilaterally can detain a person for up to 37 days before releasing him or formally placing him under arrest. Once a suspect is arrested, the revised law allows police and prosecutors to detain him for months before trial while a case is being "further investigated." Few suspects are released on bail pending trial. Also, in "state secrets" cases, the revised Criminal Procedure Law authorizes officials to deny suspects access to a lawyer while their cases are being investigated. The definition of state secrets is broad, vague, and subject to independent interpretation by police, prosecutors, and judges, throughout the different stages in a criminal case. Uncertainty regarding the scope and application of this statute has created concern about a detainee's right to legal assistance.

The revised Criminal Procedure Law also does not address certain shortcomings in the legal system. Under the law, there is no right to remain silent, no presumption of innocence, no right against double jeopardy, and no law of evidence. The mechanism that allows defendants to confront their accusers is inadequate; according to one expert, only 1 percent to 5 percent of trials involve witnesses.

Anecdotal evidence indicates that implementation of the Criminal Procedure Law remains uneven and far from complete, especially in politically sensitive cases. Differing interpretations of the law taken by different judicial and police departments have contributed to contradictory and incomplete implementation. The Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security, the Ministry of Justice, and the Legal Work Committee of the National People's Congress have issued supplementary implementing regulations to address some of these weaknesses. During the year, the Government continued its efforts to educate lawyers, judges, prosecutors, and especially the public on the provisions of this and other laws.

Defendants frequently have found it difficult to find an attorney willing to handle sensitive political cases. Government-employed lawyers still depend on official work units for employment, housing, and other benefits, and therefore many may be reluctant to represent politically sensitive defendants. In January 1999, dissident Wang Ce was tried and defended himself, reportedly because lawyers recommended by the court refused to take his case. In February 2000, he was sentenced to 4 years in prison. There were no new reports of the Government revoking the licenses of lawyers representing political defendants, as it sometimes has done in the past.

Lawyers who try to defend their clients aggressively continue to have problems with police and prosecutors, leading to complaints and threats of harassment by law enforcement officials. Lawyers' professional associations have called for better protection of lawyers and their legitimate role in the adversarial process.

Nevertheless, there are signs that members of the public are beginning to use the court system and the new legal remedies available to them to protect their rights and seek redress for a variety of Government abuses. A growing number of persons are using legal recourse against government malfeasance. The Beijing Higher People's Court released statistics in April 2000 stating that when citizens sued the Government, citizen plaintiffs won in 23 percent of cases (832 of 3,632) between 1990-1999. In addition, a large percentage of such cases are settled out of court. The term "administrative omission" refers to cases where Government organizations do not respond or delay response to applications lodged by citizens. According to statistics by the SPC, the number of administrative omission lawsuits filed by individuals against Government organizations rose 7.6 times between 1990 and 1998. Urban citizens also are serving as watchdogs against corruption. In 2000, the Beijing Discipline Inspection Commission received 19,333 letters alleging corruption. Due to those letters, officials filed corruption charges in 599 cases and punished 1,044 officials. However, while some plaintiffs successfully have filed suit against the Government, decisions of any kind in favor of dissidents remain rare. In particular, appeals of prison sentences by dissidents rarely are granted.

In 2000, 3,789 criminal convictions or sentences were overturned upon appeal. That same year, the Supreme People's Court announced provisions to enable the poor to afford litigation, and announced that officials postponed, reduced or waived court fees in over 237,000 cases involving the poor, elderly or persons with disabilities. To promote transparency, Shenzhen courts instituted a pilot program requiring judges to write out the reasoning behind their verdicts. An appeals judge could then review a verdict and levy fines against judges making decisions based on faulty legal reasoning.

In recent years, credible reports have alleged that organs from some executed prisoners were removed and sold. Officials have confirmed that executed prisoners are among the sources of organs for transplant but maintain that consent is required from prisoners or their relatives in advance of the procedure. There is no national law governing organ donations, but a Ministry of Health directive explicitly states that buying and selling human organs and tissues is not allowed. In June 2000, Wang Guoqi, a former employee of the Paramilitary Police General Division Hospital in Tianjin, testified before the U.S. Congress that he had harvested skin and corneas from more than 100 executed prisoners. Wang testified that he had become disturbed by the practice after taking part in the removal of skin from a still-living prisoner in 1995. The authorities stated that Wang fabricated the story in order to seek political asylum in the United States. The

courts traditionally issue several death sentences before the annual lunar New Year holiday and other holidays. According to Hong Kong press reports, these executions have increased the demand for organs from executed prisoners. In 2000 more than 40 wealthy individuals in need of transplants reportedly traveled to a hospital in Guangzhou and paid up to \$300,000 (2.5 million RMB) each for livers harvested from executed criminals. There are no reliable statistics on how many organ transplants occur each year using organs from executed prisoners, but, according to press reports, hundreds of persons from foreign countries, particularly Asian countries, who are unable to obtain transplants at home travel to the country each year for organ transplants. Recipients report paying various amounts for the transplants, and some have reported that treatment may be terminated or delayed for a lack of funds or a delay in payment.

In recent years, the Ministry of Justice drafted regulations to standardize professional performance, lawyer-client relations, and the administration of lawyers and law firms. The regulations also granted lawyers formal permission to establish law firms, set educational requirements for legal practitioners, encouraged free legal services for the general public, and provided for the disciplining of lawyers. Government officials state that there are insufficient lawyers to meet the country's growing needs. Lawyers are organizing private law firms that are self-regulating and do not have their personnel or budgets determined directly by the State. More than 60 legal aid organizations (many of which handle both criminal and civil cases, including those stemming from disputes over compensation to workers) have been established around the country, and the Ministry of Justice has established a nationwide legal services hot line. Beijing and other city police departments have set up hotlines for citizens to complain about police misconduct. In March, Beijing authorities claimed that their hot line received nearly 120 calls per day.

Neither prosecutors nor judges are required to have law degrees or legal experience, and qualification standards traditionally have been low. Many are not well versed in the law.

While defending his annual report to the NPC in March, People's Supreme Court President Xiao Yang came under fire from delegates for the slow pace of judicial reform. One delegate pointed out that only approximately 9 percent of judicial professionals had a college education. Another delegate complained that lack of respect for human rights in the legal system was a growing problem. Notably, the NPC only gave a 74.4 percent approval rating to the Supreme Court's annual report and a 71.2 percent rating to the Procuratorate.

The SPC's and Supreme People's Procuratorate's reports to the NPC in March acknowledged that the political and professional quality of judicial staff was not high. SPC President Xiao Yang admitted that higher courts were not doing enough to fight corruption or to fire incompetent judges. Xiao stressed that the courts must not only fight corruption in society at large, but also corruption within the courts. In his report, Xiao promised to work to make trial court procedures simpler and more efficient. During the year, the Government continued a campaign to correct systemic weaknesses in the judicial system and make it more accountable to public scrutiny. Xiao noted that, in an effort to identify judges of high quality, the Government had introduced a chief justice system in over 50 percent of local courts. The authorities undertook other efforts to improve the training and professionalism of judges and lawyers.

After July 2000, in a effort to distance judges from prosecutors, judges in Beijing shed their military style uniforms, including epaulets and caps, in favor of robes or suits. The NPC also approved separate draft amendments to the 1995 laws on judges and prosecutors in July 2000. One amendment requires judicial or prosecutorial appointees to be law school graduates who have practiced law for at least 2 years, or postgraduates who have practiced law for at least 1 year. Another requires heads of courts and procuratorates, members of judicial committees of courts and procuratorates, and heads of judicial panels to have passed relevant examinations.

During the year, some lawyers, law professors, and jurists continued publicly to press for legal reform. Major newspapers and legal journals called for the introduction of a British or American system of discovery, the abolition of coerced confessions, a legal presumption of innocence, an independent judiciary, and improved administrative laws. Western scholars and journalists also wrote a series of articles critical of shortcomings in the justice system. Specific criticisms include the use of administrative detention in psychiatric facilities to house political or religious dissidents, absence of legal provisions specifically guaranteeing a suspect's right to remain silent, coerced confessions, torture, the presumption of guilt and the right to legal counsel during interrogation.

Government officials denied that there were any political prisoners, asserting that authorities detained persons not for their political or religious views, but because they violated the law. However, the authorities continued to detain citizens for political and religious reasons. It is estimated that thousands of political prisoners remain incarcerated, some in prisons and others in labor camps.

The 1997 Criminal Law replaced "counterrevolutionary" offenses, which, in the past, often had been used against the Government's political opponents, with loosely defined provisions barring "crimes endangering state security." In 2000 officials stated that there were 1,300 individuals in prisons serving sentences under the Counterrevolutionary Law. Persons detained for such offenses included Hu Shigen, Kang Yuchun, Yu Zhijian, Zhang Jingsheng, and Sun Xiongying. Several foreign governments urged the Government to review the cases of those charged with counterrevolution, since the crime was no longer on the books, and release those who had been jailed for nonviolent offenses under the old statute. Officials have indicated that a case-by-case review of appeals filed by individual prisoners is possible under the law, and there is one known case of a successful appeal. However, the Government indicated that it would neither initiate a comprehensive review of cases nor grant a general amnesty, arguing that there is no law on retroactive decriminalization. Those charged with counterrevolutionary crimes, including those who committed nonviolent acts, continue to serve their sentences.

Amnesty International has identified 211 persons who remain imprisoned or on medical parole for their participation in the 1989 Tiananmen demonstrations; other NGO's estimate that as many as 2,000 persons remain in prison for their actions at that time.

The Government released several political prisoners early. Tiananmen activist Zhang Jie was released from a prison in Wefang City, Shandong in January. A founding member of the CDP, Han Lifa, was released from a labor camp in July, as was the poet Ma Zhe, who was released after serving 31/2 years in a Guizhou Province jail. Guo Haifeng, a former leader of the 1989 Tiananmen movement, was released 6 months early in March. In July labor activist Cao Maobing was released from a psychiatric facility where he had been held for 7 months. Dissident Zhou Yongjun was released in March.

However, many others, including Chadrel Rinpoche, Fan Zhongliang, Han Chunsheng, Li Bifeng, Jigme Sangpo, Ngawang Sangdrol, Qin Yongmin, Shen Liangqing, Zha Jianguo, Wang Youcai, Xu Guoxing, Xu Wenli, Zhang Lin, Zhang Shanguang, Zhao Changqing, and Fang Jue remained imprisoned or under other forms of detention during the year. Political prisoners generally benefit from parole and sentence reduction at significantly lower rates than ordinary prisoners do. In addition, authorities summarily tried and sentenced political dissidents to long prison terms.

Criminal punishments can include "deprivation of political rights" for a fixed period after release from prison, during which the individual is denied rights of free speech and association. Former prisoners also can find their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Economic reforms and social changes have ameliorated these problems for nonpolitical prisoners in recent years. However, former political prisoners and their families still frequently are subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and may encounter difficulty in obtaining or keeping employment and housing.

#### f. Arbitrary interference With Privacy, Family, Home, Correspondence

The Constitution states that the "freedom and privacy of correspondence of citizens are protected by law." Despite legal protections, authorities often do not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently has been ignored; moreover, the Public Security Bureau and the Procuratorate can issue search warrants on their own authority. Authorities monitor telephone conversations, facsimile transmissions, e-mail, and Internet communications. Authorities also open and censor domestic and international mail. The security services routinely monitor and enter the residences and offices of persons dealing with foreigners to gain access to computers, telephones, and fax machines. Government security organs monitor and sometimes restrict contact between foreigners and citizens. All major hotels have a sizable internal security presence.

In urban areas, many persons still depend on Government-linked work units for housing, healthcare, permission to have a child, approval to apply for a passport, and other aspects of ordinary life. However, the work unit and the neighborhood committee, which originally were charged with monitoring activities and attitudes, have become less important as means of social or political control, and government interference in daily personal and family life continues to decline for the average citizen.

Some dissidents are under heavy surveillance and routinely have their telephone calls with foreign journalists and diplomats monitored. The authorities blocked some dissidents from meeting with foreigners during politically sensitive periods. Police ordered several dissidents not to meet with foreign journalists or foreign diplomats during the period it was announced that Beijing would host the 2008 Summer Olympics or during the visit of a high-level foreign official in July.

Government harassment prevents activists from obtaining and keeping steady employment. In 2000 the Government prevented Ding Zilin, an organizer of relatives of the victims of the Tiananmen massacre, from meeting the widow of a prominent foreign author, and the Government continued to freeze bank accounts kept by Ding Zilin and others containing funds to help families of the Tiananmen Square massacre victims. The authorities also confiscated money intended to help dissidents and their families. Dissidents have reported harassment by the authorities. Dissidents in Shanghai have been warned not to meet with certain persons, talk to reporters, or write or fax articles. Such harassment appears to be common among Tiananmen-era activists.

Authorities also harassed and monitored the activities of relatives of dissidents. Security personnel kept close watch on relatives of prominent dissidents, especially during sensitive periods. For example, security personnel followed the wife of Xu Wenli to meetings with foreign reporters and diplomats on numerous occasions. Dissidents and their family members routinely are warned not to speak with the foreign press. Police sometimes detained the relatives of dissidents (see Sections 1.d. and 2.a.)

Official poverty alleviation programs and major state projects—such as the Three Gorges Dam and environmental or reforestation projects—included forced relocation of persons.

The Government continued to implement comprehensive and sometimes coercive family planning policies. The State Family Planning Commission (SFPC), with a staff of 400,000, formulates and implements policies with assistance from the Family Planning Association, which has 83 million members working part-time at 1 million branches nationwide. A strict one-child policy (or two-child policy for couples with no siblings) applies in the cities, but not in most rural areas, where 70 percent of citizens live. For enforcement, birth control policies depend heavily on severe economic penalties (called "social compensation fees") for over-quota children. These fines are assessed at widely varying levels, depending on the circumstances of the parents. Most

demographers estimate fertility at 2.0 to 2.3 births per woman (although the official figure is 1.8), indicating that the "one-child policy" is not applied uniformly.

Couples in urban areas are affected most severely by family planning regulations, seldom receiving permission to have more than one child, although urban couples who themselves were only children may have two children. Fines for over-quota children can be extremely high, equaling several years' wages for an average worker. At the same time, economic development and other factors such as small houses, both parents working full-time, and high education expenses have reached a level where couples in major urban centers often voluntarily forego having children or limit their families to one child. There were indications that, due to the success of the one-child policy in urban areas, the Government was beginning to relax its policies in the cities. In order to delay childbearing, the Marriage Law sets the minimum age at marriage for women at 20 years, and for men at 22 years; marrying 2 or more years later is encouraged. It is illegal for unmarried women to bear children.

Outside the cities, exceptions to the one-child policy are becoming the norm. The average number of children per family in rural areas is slightly over two. Couples in rural areas generally are allowed to have a second child if the first is a girl, an exception that takes into account both the demands of farm labor and the traditional preference for boys. Families whose first child is disabled also are allowed to have another child. Ethnic minorities, such as Muslim Uighurs and Tibetans, are subject to significantly less stringent population controls and in some rural areas they are permitted to have as many as four children. In remote areas, there are no effective limits, but government employees and Party members are encouraged to have only one child.

Population control policy relies on education, propaganda, and economic incentives, as well as on more coercive measures, including psychological pressure and economic penalties. The national family planning policy is implemented through provincial and local regulations. According to local regulations in at least one province, women who do not qualify for a Family Planning Certificate that allows them to have a child must use an intrauterine device (IUD) or implant. The regulations further require that women who use an IUD undergo quarterly exams to ensure that it remains properly in place. Rewards for couples who adhere to family planning policies include monthly stipends and preferential medical and educational benefits.

Disciplinary measures against those who violate policies can include fines of up to three times a couple's annual salary, withholding of social services, higher tuition costs when the child goes to school, demotion, and other administrative punishments, including in some cases the loss of employment. Government employees are particularly vulnerable to loss of employment when they have a child without permission. Fines for giving birth without authorization vary, but they can be a formidable disincentive. In many provinces, penalties for excess births in an area also can be levied against local officials and the mother's work unit, thus creating multiple sources of pressure. In Guizhou, for example, regulations state that officials in an area in which birth targets are not met cannot be promoted in that year. All workers at a factory or other work unit might lose a bonus if one worker has a child without permission. Unpaid fines sometimes have resulted in confiscation or destruction of homes and personal property by local authorities."

In June 1999 Anhui province promulgated amended family planning rules that stated that each couple "is encouraged" to have only one child, that second births are "strictly controlled," and that "unplanned births are forbidden." Women of childbearing age are required periodically to undergo pregnancy tests, and couples are required to "practice effective contraceptive measures." Couples already having a child are required to adopt long-term birth control measures. In the cases of families that already have two children, one of the parents "is encouraged to undergo sterilization." According to a credible report, the number of couples undergoing sterilization procedures after giving birth to two children increased significantly in at least one inland province. In addition the rules state that "unplanned pregnancies must be aborted immediately."

Over the past few years, authorities have initiated experiments to relax family planning targets in several counties and have announced plans to expand this relaxation. The Government reportedly encourages local officials to initiate and fund their own projects on family planning.

Penalties for violations of family planning regulations have led to widespread underreporting of rural births, making population statistics unreliable. Local officials, caught between pressures from superiors (usually provincial-level leaders) to show declining birth rates, and from local citizens to allow them to have more than one child, frequently make false reports.

Central Government policy formally prohibits the use of force to compel persons to submit to abortion or sterilization; however, intense pressure to meet family planning targets set by the Government has resulted in documented instances in which local family planning officials have used coercion, including forced abortion and sterilization, to meet Government goals. During an unauthorized pregnancy, a woman often is paid multiple visits by family planning workers and pressured to terminate the pregnancy. Senior officials have stated repeatedly that the Government "made it a principle to ban coercion at any level." Senior officials acknowledge that problems persist and insist on the Government's determination to address such problems. The SFPC has issued circulars nationwide prohibiting family planning officials from coercing women to undergo abortions or sterilization against their will. In August 2000 SFPC officials publicly criticized local officials in Huaiji, Guangdong Province, for "periodic campaigns" in which the local government organized women of childbearing age to be sterilized or have intrauterine devices inserted. Under the State Compensation Law, citizens also can sue officials who exceed their authority in implementing family planning policy, and in a few instances, individuals have exercised this right.

Corruption related to family planning fines is a widespread problem. SFPC officials reported that they responded to over 10,000 complaints against local officials during the year. They also have reported serious sanctions imposed on numerous officials during the year.

In late 1998, the U.N. Population Fund (UNFPA) launched a 4-year pilot project in 32 counties. Under this program, local officials must address family planning and reproductive health issues solely through the use of voluntary measures, emphasizing education, improved reproductive health services, and economic development. The SFPC worked closely with the UNFPA to prepare informational materials and to provide training for officials and the general public in the project counties. In all the project counties, the local governments have informed the general public about the UNFPA program and have eliminated the system of overall countywide birth and population targets that tends to generate coercive enforcement. Economic fines assessed on individual families for over-quota children, however, remain. Central authorities have welcomed foreign delegations to inspect the UNFPA project counties, and foreign diplomats visited several counties during the year. Thanks to the shift in SFPC priorities, UNFPA reports that the number of women countrywide who make their own contraceptive choices rose from 53 percent in 1998 to 83 percent in 2000.

Regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the traditional preference for male children, particularly in rural areas, many families have used ultrasound to identify female fetuses and terminate pregnancies (see Section 5). The use of ultrasound for this purpose is prohibited specifically by the Maternal and Child Health Care Law, which mandates punishment of medical practitioners who violate the provision. According to the SFPC, a handful of doctors have been charged under this law. After operating for 7 years, an illegal sex determination clinic was exposed in 2000 when an outraged citizen called the Liaoyang City mayor's hot line. Government statistics put the national ratio of male to female births at 114 to 100; the World Health Organization estimates the ratio to be 117 to 100. The statistical norm is 106 male births to 100 female births. According to demographers in the country, currently there may be as many as 100 million more men than women. These skewed statistics reflect both the underreporting of female births so that parents can keep trying to conceive a boy, and the abuse of sonograms leading to the termination of pregnancies based on the sex of the fetus. Female infanticide, abandonment, or the neglect of baby girls that results in lower female survival rates are also factors (see Section 5). The state-run media is paying increasing attention to unbalanced birth ratios, and the societal problems, such as localized shortages of marriageable women and trafficking in women, which they cause (see Section 6.f.). In the cities, the traditional preference for sons is changing; in the rural areas the preference remains strong.

The Maternal and Child Health Care Law requires premarital and prenatal examinations to determine whether couples have acute infectious diseases or certain mental illnesses (not including mental retardation), or are at risk for passing on debilitating genetic diseases. The Ministry of Health implements the law, which recommends abortion or sterilization in some cases, based on medical advice. The law also provides for obtaining a second opinion and states that patients or their guardians must give written consent to such procedures. At least five provincial governments have implemented local regulations seeking to prevent persons with severe mental disabilities from having children. In August 1998, the Government issued an "explanation" to provincial governments clarifying that no sterilization of persons with genetic conditions could be performed without their signed consent. In practice, most areas still do not have the capacity accurately to determine the likelihood of passing on hard to detect debilitating genetic diseases.

During the year, the China Psychiatric Association ceased listing homosexuality as a mental illness. Many gays and lesbians saw the move as a sign of increased government tolerance. Nonetheless, most gatherings of gays and lesbians still take place clandestinely.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution states that freedom of speech and freedom of the press are fundamental rights to be enjoyed by all citizens; however, the Government restricts these rights in practice. During the year, the Government maintained tight restrictions on freedom of speech and the press. The Government interprets the Communist Party's "leading role"—as mandated in the preamble to the Constitution—as circumscribing these rights. The Government strictly regulates the establishment and management of publications. The Government does not permit citizens to publish or broadcast criticisms of senior leaders or opinions that directly challenge Communist Party rule. The Party and Government continue to control many—and, on occasion, all—print and broadcast media tightly, and use them to propagate the current ideological line. According to official statistics, in 1998 the country had 2,053 newspapers, 7,999 magazines and trade publications, and published 7.24 billion copies of books representing 7,999 titles. All media employees are under explicit, public orders to follow CCP directives, and "guide public opinion," as directed by political authorities. Both formal and informal guidelines continue to require journalists to avoid coverage of many politically sensitive topics. The State Security Law forbids journalists from divulging "state secrets." These public orders, guidelines, and statutes greatly restrict the freedom of broadcast journalists and newspapers to report the news, and lead to a high degree of self-censorship. The Government's harsh propaganda campaign against the FLG intensified after the January self-immolation of four FLG adherents, but had abated by the end of the year. There were also intermittent propaganda campaigns against superstition.

Some dissidents remained active and continued to speak out despite the Government's restrictions on freedom of speech. In January 119 dissidents sent an open letter urging the Government to release jailed colleagues ahead of the Lunar New Year festival, stating that it would help Beijing's bid for the 2008 Olympic Games. Lin Mu, the former secretary of former reform-minded Communist Party boss Hu Yaobang, organized the letter campaign. Prominent activists including Zhou Guoqiang, Wang Donghai, Chen Longde, and Leng Wanbao signed the letter. In July Wang Hongxue of Bengbu, Anhui Province issued an open letter demanding that the authorities fulfill their commitment to the International Olympic Committee about improving human rights by reversing the verdict on the 1989 Tiananmen Massacre. In September 500 intellectuals signed an open letter calling for greater press freedom and reform of the education system to curb nationalism. However, the Government continued to threaten, arrest and imprison persons exercising free speech. For example, in

February Shan Chengfeng, wife of Chinese Democratic Party co-founder Wu Yilong, was sentenced to two years reeducation-through-labor for urging the International Olympic Committee to exert pressure to release a number of CDP prisoners.

Although there are a few privately owned print publications, all media stories must be vetted by the authorities before publication. There are no privately owned television or radio stations, and all programming must be approved by the Government. Commercial program producers are seeking to expand the limits of broadcast content.

As in the past, during the year, journalists and editors who exposed corruption scandals frequently faced problems with the authorities, and the Government continued to close down publications and punish journalists for printing material deemed too sensitive. Newspaper editors may be suspended and sent to the Propaganda Bureau for "rectification," after which they generally can return to work in the publishing industry. President Jiang indicated the ban on new permits for magazines and publishing houses would remain in place and that authorities would place tighter controls on freelance contributors to newspapers, magazines, and Web sites, as well as freelance production houses for television units. At year's end, these controls had not been implemented.

With the Government's consent and even open support, the press continued to publish stories related to citizens' rights, legal reform, official corruption, and official misconduct and gross abuses, particularly by law enforcement officials. However, newspapers cannot report on corruption without government and Party approval, and publishers published such material at their own risk. In December 2000, Jiang Weiping, a reporter for the Hong Kong-based Wen Wei Pao newspaper, was detained for writing stories alleging that authorities had covered up several embezzlement schemes in Liaoning Province. In June authorities announced Jiang would be tried for leaking state secrets. In July Yao Xiaohong, director of the news department of the Dushi newspaper in Jiangxi province, was fired for reporting that local officials had removed the kidneys from an executed convict without his prior consent.

In recent years, journalists were harassed, detained, and threatened often for reporting on subjects that met with the Government's or local authorities' disapproval, including corruption. However, during the year, the authorities appeared to target editors, rather than journalists, for punishment when articles upset Party officials. In May Central Committee Propaganda Department officials severely criticized the editorial staff of Guangzhou's widely read newspaper, Southern Weekend, and forced its management to fire two senior editors for publishing exposes of corruption. Some believe that the actions against Southern Weekend were taken in response to complaints from provincial Party propaganda chiefs in other parts of the country angered by corruption exposes in their provinces. Southern Weekend's investigative reporting and critical editorials have resulted in several actions against it by the authorities in the past. In July, reportedly in response to publishing criticisms of CCP General Secretary Jiang Zemin's plans to allow entrepreneurs into the Communist Party, the Central Party Propaganda Department suspended publication of the leftist journals Pursuit of Truth and Mainstay.

During the year numerous journalists received prison sentences for reporting on subjects deemed sensitive by the Government. Freelance journalist Zhu Ruixiang was arrested on May 9 and charged with subversion after distributing articles over the Internet. On September 11, he was sentenced to three years in prison. Liu Haofeng was sentenced to re-education through labor on May 16 for having published policy papers critical of the regime's treatment of the China Democracy Party. Wang Jinbo was sentenced to four years in prison in December for having e-mailed articles to overseas publications advocating a review of verdicts issued in the June 4, 1989 Tiananmen massacre.

The Government confiscated the November 24 edition of the magazine Securities Market Weekly. That edition carried a short article about the influence of National People's Congress Chairman Li Peng's wife and son in the power generation sector of the PRC economy.

Nonetheless, during the year, the press did report aggressively on a number of events, which in some cases resulted in government officials taking action. For example, press coverage of a March 6 explosion at a rural school that killed dozens of students and teachers in south central Jiangxi province appeared to cause the central authorities to change their initial version of events (see Section 6.d.). The media also reported on the Nandan tin mine disaster in Guangxi in July, which killed 300 persons. Quick and accurate reporting by the media led to the arrest in August of 15 persons who had tried to cover up the disaster. On August 27, the official Party newspaper, The People's Daily, defended the watchdog function of the media and lauded reporters for their investigative work in a number of cases, particularly the Nandan incident. The newspaper stated that the journalists' coverage of Nandan enabled officials to respond and to investigate the coverup.

Government restrictions on the press and the free flow of information, however, prevented accurate reporting on the spread of HIV/AIDS and the role of blood collection procedures in the spread of the disease in rural areas.

During the year, propaganda authorities seemed to pay less attention to aggressive reporting on economic topics. In August the magazine Business and Finance Review exposed a well-connected, Ningxia-based company that illegally had manipulated its stock price and cheated its investors. The magazine ran the story despite reported complaints by propaganda officials. Newspapers and magazines appeared to be increasingly bold in their economic reporting—particularly on finance and real estate issues. Experts attributed the growing aggressiveness to market forces, especially increasing competition from other newspapers, domestic satellite television channels, and the Internet.

For several years, journalists openly have called for legislators to enact a press law to grant them press

freedom protection. In May 2000, the legal affairs bureau of Anhui Province issued a regulation banning government departments from refusing press interviews. A division chief at the Beijing High People's Court indicated in a December 2000 press interview that the Supreme People's Court might be pressed to issue judicial explanations of constitutional press safeguards to local law enforcement officials as a means to expand press freedoms and protect journalists.

The Government kept tight control over the foreign press during the year and continued efforts to prevent foreign media "interference" in internal affairs.

The publishing industry consists of three kinds of book businesses: Roughly 500 Government-sanctioned publishing houses, smaller independent publishers that cooperate with official publishing houses to put out more daring publications, and an underground press. The government-approved publishing houses are the only organizations legally permitted to print books. The Government exerts control by issuing a limited number of publishing licenses, which are required for each edition of any book. A Party member at each publishing house monitors the content of the house's publications and uses the allocation of promotions, cars, travel, and other perks to encourage editors to exercise "proper" judgment about publications. Overt intervention by the State Publications Administration and Party Propaganda Bureau is strictly post-publication. Independent publishers take advantage of a loophole in the law to sign contracts with Government publishing houses to publish politically sensitive works. These works generally are not subjected to the same multilayered review process as official publications of the publishing houses.

Underground printing houses, which are growing in number, publish the books that are the most popular with the public. These underground printing houses have been targets of campaigns to stop all illegal publications (including pornography and pirated computer software and audiovisual products), which has had the effect of restricting the availability of politically sensitive books.

The PEN American Center reported that during 2000 there was a tightening of the publishing rules. There also were reports that 15 publishing houses were closed in 2000.

Customs officials have seized shipments of Bibles that were not authorized by the Government. The authorities continued to jam, with varying degrees of success, Chinese- and Tibetan-language broadcasts of the Voice of America (VOA) and Radio Free Asia (RFA). English-language broadcasts on VOA generally are not jammed, unless they immediately follow Chinese-language broadcasts, in which case portions of English-language broadcasts may be jammed. Government jamming of RFA is more frequent and effective. In the absence of an independent press, overseas broadcasts such as VOA, British Broadcasting Corporation (BBC), RFA, and Radio France International have a significant audience, including activists, ordinary citizens, and even government officials.

Television news programs continued attempts to expand the number of topics that openly can be discussed. The nightly news program, Focal Point, frequently ran exposes on corruption or socially relevant stories that resulted in the authorities investigating wrongdoing. On December 20, 2000, Hunan Star TV's talk show, Take it Easy, became the first program in to air a program talking frankly about homosexual life. Plans to rebroadcast the program in during the year were canceled, allegedly due to pressure from the State Administration of Radio, Film, and Television.

In August some local cable television networks began providing uncensored foreign news programming, including programs from CNN and European news services, to cable television customers for a fee. Prior to this, only major hotels and residence compounds for foreigners could legally show uncensored TV news from outside of the country.

The Government continued to encourage the expansion of the Internet; however, it also continued to place restrictions on information available on the Internet. According to a China Network Information Center survey released in January, 22.5 million persons used the Internet at that time. By the end of 2000, 892,000 computers were linked to the Internet. While only a very tiny fraction of all citizens use it, many of the country's intellectuals and opinion leaders now routinely use the Internet. Officials consider the Internet to be a key element of the nation's economic development strategy. The authorities appear to understand that the country needs the economic benefits the Internet brings, but fear the political ramifications of the free flow of information.

The Ministry of Information Industry (MII) regulates access to the Internet while the Ministries of Public and State Security (MPS and MSS) monitor its use. In late 2000, the Government issued regulations governing ownership, content and other aspects of Internet use, including who can own Internet businesses, what can be published on the Internet, and who has oversight over Internet businesses. The regulations reportedly require Internet content providers to keep files of what they post and who reads it for 60 days. Other regulations were set up punishing persons who store, process, or retrieve information deemed to be "state secrets" from international computer networks. In October 2000, a regulation went into effect banning the dissemination of any information that might harm unification of the country, endanger national security, or subvert the government. Promoting "evil cults" was banned as was providing information that "disturbs social order or undermines social stability." One new regulation, covering chat rooms, requires all service providers to monitor content and restrict controversial topics. Internet cafes are required to monitor, keep identifying information, and report on customers using the terminals; they also are required to monitor and limit access to information that is prohibited by law or regulation. Another regulation requires Internet cafe patrons to register with "software managers" and produce a valid ID card to log on. Throughout the country, diplomats have observed that most Internet cafe users ignore these regulations. Enforcement of some regulations generally wanes after a few months. There have been reports that the Government has specially trained police units to monitor and increase control of Internet content and access.

The authorities block access to Web sites they find offensive. Authorities have at times blocked politically sensitive Web sites, including those of dissident groups and some major foreign news organizations, such as the VOA, the Washington Post, the New York Times, and the BBC. E-mail and e-mail publications are more difficult to block, although the Government attempts to do so by, at times, blocking all e-mail from overseas Internet service providers used by dissident groups, and by filtering and tracking individual e-mail accounts. Overseas dissident publications respond to attempts by authorities to block their sites by constantly shifting their e-mail origination address. Citizens who supply large numbers of e-mail addresses to organizations abroad have been prosecuted. The authorities do not consider persons who receive dissident e-mail publications responsible for having gotten onto a mailing list, but forwarding those messages to others is illegal.

Although knowledgeable Internet users can find a great deal of sensitive material, government net censorship intimidates many Web content providers into censoring themselves. Content on some bulletin boards has been removed. Internet entrepreneurs have complained that Government regulations controlling the Internet were so broadly written that MSS officials could find any Web page operator or e-commerce merchant guilty of violating regulations. Although there are frequent reports about crackdowns on Internet cafes in the country, diplomats observe that the number and geographic distribution of cafes continues to grow rapidly.

In April Guo Qinghai of Cangzhou City outside Beijing became the first person convicted under new laws on the Internet when he was given a 4 year sentence for posting pro-democracy material. Also in April, Beijing-based Yang Zili was detained by security officers for allegedly helping dissidents get past government firewalls and set up e-mail accounts that could not be tapped. That same month, Wang Sen was detained in Dachuan, Sichuan Province for posting articles alleging the resale of Red Cross-donated tuberculosis medicine. In May Wang Jinbo was arrested in Junan, Shandong Province, for posting Internet articles "defaming" the police. In June police detained Li Hongmin in Hunan province for distributing copies of the Tiananmen Papers over the Internet. In August Chengdu-based Internet activist Huang Qi was tried secretly and found guilty of "subverting state power." Huang had operated a site exposing corrupt practices and criticizing the June 4, 1989 Tiananmen massacre. At year's end he had not been sentenced.

Writers who have difficulty getting published sometimes circulate their work by e-mail or on Web sites. Some Web sites, such as the "Marxist Liberal Left Wing Ideology Web site" and the People's Daily "Strong Country Forum," regularly post surprisingly frank critiques of society, the Party, and the Government.

The Government does not fully respect academic freedom and continues to impose ideological controls on political discourse at colleges, universities, and research institutes. Scholars and researchers report varying degrees of control regarding the issues that they may examine and the conclusions that they may draw. Censorship of written material comes at the time of publication, or when intellectuals and scholars, anticipating that books or papers on political topics would be deemed too sensitive to be published, exercise self-censorship. In areas such as economic policy or legal reform, there was far greater official tolerance for comment and debate.

The Government continues to use political attitudes as criteria for selecting persons for Government-sponsored study abroad, but does not impose such restrictions on privately sponsored students (who constitute the majority of students who study abroad).

Foreign-based researchers working in the country, such as Qin Guangguang, also have been subject to sanctions from the authorities when their work crosses ill-defined boundaries and arbitrarily is determined to be a crime. Other foreign-resident Chinese national scholars were detained in previous years. These detentions created a chilling effect on other Chinese researchers, whether resident in the country or abroad. There also was concern that collaborative research with foreigners may become more difficult.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly; however, the Government severely restricts this right in practice. The Constitution stipulates that such activities may not challenge "Party leadership" or infringe upon the "interests of the State." Protests against the political system or national leaders are prohibited. Authorities deny permits and quickly move to suppress demonstrations involving expression of dissenting political views.

At times police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. The most widely publicized demonstrations in recent years were those of the FLG spiritual movement. For the past 3 years, the Government has waged a severe political, propaganda, and police campaign against the FLG movement. Since the Government banned the FLG in 1999, the mere belief in the discipline (and since January, even without any public manifestation of its tenets) has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. In some cases, practitioners in custody have suffered torture and death. Several hundred practitioners have been tried and convicted of crimes—including that of "using a heretical cult to disturb social order." However, the great majority of practitioners have been punished without a trial. In the wake of a series of large protests on Beijing's Tiananmen Square, the Government stepped up the use of the reeducation-through-labor system to sentence practitioners administratively to up to 3 years in detention.

Many thousands of FLG practitioners have been detained in reeducation-through-labor camps; many more have been confined to psychiatric hospitals. During the year, facilities were established specifically to "rehabilitate" practitioners who refuse to recant their belief voluntarily (see Section 2.c.).

The tactic used most frequently by the central government against FLG, however, has been to make local officials, family members, and employers of known practitioners responsible for preventing FLG activities by individuals. In many cases, practitioners are subject to close scrutiny by local security personnel and their personal mobility is tightly restricted, particularly on days when the Government believes public protests are likely. Directives to prevent FLG protests at all costs has resulted in many egregious abuses.

In many cases, the authorities dealt with economic demonstrations leniently (see Section 6.a.), but some economic demonstrations were dispersed with the use of force. While the exact number of demonstrations is difficult to quantify, the Government stated that the number of demonstrations nationwide continued to grow. According to the most recently available Public Security Ministry Report, in 1999 more than 100,000 demonstrations took place, up from 60,000 in 1998. Some of these demonstrations included thousands of protesters. Authorities handled many of the protests with restraint, especially those concerned with economic issues. The frequency of most types of demonstrations increased during the year; however, the number of FLG demonstrations decreased (see Section 2.c.).

The Constitution provides for freedom of association; however, the Government restricts this right in practice. Communist Party policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the Government. Ostensibly aimed at restricting secret societies and criminal gangs, these regulations also prevent the formation of truly autonomous political, human rights, religious, environmental, labor, and youth organizations that directly challenge government authority. Since November 1999, all concerts, sports events, exercise classes or other meetings of more than 200 persons must be approved by Public Security authorities.

There are no laws or regulations that specifically govern the formation of political parties. The Government moved decisively, using detentions and prison terms, to eliminate the China Democracy Party, which activists around the country had tried since 1998 to organize into the country's first opposition political party.

According to 1998 Government statistics, the latest such figures available, there were 1,500 national-level, quasi-nongovernmental organizations, 165,000 social organizations and 700,000 nonprofit organizations registered with the Ministry of Civil Affairs. Although these organizations all came under some degree of Government control, they were able to develop their own agendas. Many had support from foreign secular and religious NGO's. Some sought advocacy roles in less controversial public interest areas such as women's issues, the environment, and consumer rights. Regulations stipulate local-level NGO's must have an official office and at least \$3,600 (30,000 RMB) in funds. National-level groups must have at least \$12,000 (100,000 RMB). Applications must be vetted by the Government, which has 2 months in which to grant approval. Once established, groups are required to submit to regular oversight and "obey the Constitution, laws, and national policies." They must not "damage national unity, or upset ethnic harmony." Violators (groups that disobey guidelines or unregistered groups that continue to operate) may face administrative punishment or criminal charges. It is difficult to estimate how many groups may have been discouraged from organizing NGO's because of these regulations. However, preexisting groups report little or no additional interference by the Government since the new regulations came into effect.

### c. Freedom of Religion

The Constitution provides for freedom of religious belief and the freedom not to believe; however, the Government seeks to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. There are five officially recognized religions—Buddhism, Taoism, Islam, Protestantism, and Catholicism. For each faith, there is a government-affiliated association to monitor and supervise its activities. Membership in religions is growing rapidly; however, while the Government generally does not seek to suppress this growth outright, it tries to control and regulate religious groups to prevent the rise of groups or sources of authority outside the control of the Government and the Communist Party. The Criminal Law states that government officials who deprive citizens of religious freedom may, in serious cases, be sentenced to up to 2 years in prison. There are no known cases of persons being punished under this statute.

Overall, government respect for religious freedom remained poor and crackdowns against unregistered groups, including underground Protestant and Catholic groups, Muslim Uighurs, and Tibetan Buddhists continued. The Government intensified its repression of groups that it determined to be "cults," and of the FLG in particular. Various sources report that thousands of FLG adherents have been arrested, detained, and imprisoned, and that approximately 200 or more FLG adherents have died in detention since 1999; many of their bodies reportedly bore signs of severe beatings or torture or were cremated before relatives could examine them. The atmosphere created by the nationwide campaign against FLG had a spillover effect on unregistered churches, temples, and mosques in many parts of the country. Separately, under the guise of urban renewal and cracking down on unregistered places of worship, authorities in Wenzhou, Zhejiang province razed an unknown number of churches and temples in late 2000. However, official repression of underground Catholic and Protestant groups in Guangdong and Fujian provinces eased somewhat.

In general unregistered religious groups continued to experience varying degrees of official interference, harassment, and repression. Some unregistered religious groups, including Protestant and Catholic groups, were subjected to increased restrictions, including, in some cases, intimidation, harassment, and detention; however, the degree of restrictions varied significantly from region to region. In some localities, authorities forced "underground" churches, temples and mosques to close. Regulations restricting Muslims' religious activity, teaching, and places of worship continued to be tight in Xinjiang.

The State reserves to itself the right to register and thus to allow to operate particular religious groups and

spiritual movements. The State Council's Religious Affairs Bureau (RAB) is responsible for monitoring and judging the legitimacy of religious activity. The RAB and the CCP's United Front Work Department (UFD), both of which are staffed by officials who are rarely, if ever, religious adherents, provide policy "guidance and supervision" over implementation of government regulations on religious activity, including the role of foreigners in religious activity.

Offenses related to membership in unapproved religious groups are classified as crimes of disturbing the social order. According to the Law Yearbook of China, arrests for "Disturbing the Social Order" increased dramatically in 1999 over 1998. In 1998, 76,500 persons were arrested; in 1999, over 90,000 persons were arrested. Most experts agree the increase primarily was due to the Government's crackdown, begun in mid-1999, on qigong groups like the FLG, evangelical Christian groups, localized Buddhist groups such as the Society of Disciples (Mentu Hui) and the Guanyin Famin, Protestant house churches, and the underground Roman Catholic Church.

The Government has restored or replaced churches, temples, mosques, and monasteries damaged or destroyed during the Cultural Revolution, and allowed the reopening of some seminaries. Implementation of this policy has varied from locality to locality. However, there are far fewer temples, churches, or mosques than existed 50 years ago, despite the recent increase in number of religious believers. The difficulty in registering new places of worship has led to crowding in existing places of worship in some areas. Some observers cite the lack of adequate meeting space in registered churches to explain the rapid rise in attendance at house churches and "underground" churches. However, the Government continued and in some areas intensified a national campaign to enforce State Council regulations and provincial regulations that require all places of worship to register with either government religious affairs bureaus or to come under the supervision of official "patriotic" religious organizations, affiliated with either the Catholic Patriotic Association or the (Protestant) Three-Self Patriotic Movement/Chinese Christian Council to operate legally. There are six requirements for the registration of venues for religious activity: Possession of a meeting place; citizens who are religious believers and who regularly take part in religious activity; qualified leaders and an organized governing board; a minimum number of followers; a set of operating rules; and a legal source of income. There are reports that despite the rapidly growing religious population, it is difficult for new places of worship to register, even among the five officially recognized faiths.

Some groups registered voluntarily, some registered under pressure, some shunned officials in an attempt to avoid registration, and authorities refused to register others. Some unofficial groups claimed that authorities often refused them registration without explanation. The Government contends that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Many religious groups have been reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they reveal, as required, the names and addresses of church leaders and members. In some areas, efforts to register unauthorized groups were carried out by religious leaders and civil affairs officials. In other regions, police and RAB officials performed registration procedures concurrently with other law enforcement actions. Police closed scores of "underground" mosques, temples, seminaries, Catholic churches, and Protestant "house churches," including many with significant memberships, properties, financial resources, and networks. Some were destroyed; others were confiscated by authorities for other uses. Leaders of unauthorized groups often were the targets of harassment, interrogations, detention, and physical abuse.

In some areas there were reports of harassment of churches by local RAB officials which is attributed, at least in part, to financial issues. For example, although regulations require local authorities to provide land to church groups, some local officials may try to avoid doing so by denying registration, thus avoiding the requirement to provide land. Official churches also may face harassment if local authorities wish to acquire the land on which a church is located. In addition to refusing to register churches, there also are reports that RAB officials have requested illegal "donations" from churches in their jurisdictions as a means of raising extra revenue.

There is significant variation in how the authorities deal with unregistered religious groups, and the intensity of scrutiny on "house churches" or unregistered churches varied from region to region. In certain regions, government supervision of religious activity was minimal, and registered and unregistered churches were treated similarly by authorities, existing openly side by side. Coexistence and cooperation between official and unofficial churches in such areas, both Catholic and Protestant, is close enough to blur the line between the two. In these areas, many congregants worship in both types of churches. However, in some areas relations between the two churches remained hostile. In other regions, particularly where considerable unofficial and official religious activity takes place, such as in Zhejiang, Guangxi, Shanghai, and Chongqing, local regulations call for strict government oversight of religion and authorities have cracked down on unregistered churches and their members. During the year, some unregistered religious groups were subjected to increased restrictions, and, in some cases, intimidation, harassment, and detention. The situation in the southern province of Guangdong improved somewhat during the year, after a crackdown on house churches there in early 2000. Repression of underground Catholics in the southeastern province of Fujian, a major concern in 2000, subsided over the course of the year. However, underground Protestant and Catholic contacts in the northern and central parts of the country, especially in Beijing, Henan, Hebei, Shaanxi, and Shanxi, reported an increase in efforts to force them to register. Throughout the year, the Government moved swiftly against houses of worship outside its control that grew too large or espoused beliefs that it considered threatening to "state security."

The law does not prohibit religious believers from holding public office; however, most influential positions in government are reserved for Party members, and Communist Party officials state that Party membership and religious belief are incompatible. This has a disproportionate effect in such minority-inhabited areas as Xinjiang and Tibet. Party membership also is required for almost all high-level positions in government and in state-owned businesses and organizations. The Communist Party reportedly has issued circulars ordering Party members not to adhere to religious beliefs, and to remind Party cadres that religion was incompatible with Party membership, a theme reflected in authoritative media. The "Routine Service Regulations" of the People's

Liberation Army (PLA) state explicitly that servicemen "may not take part in religious or superstitious activities." Party and PLA military personnel were expelled for adhering to the Falun Gong movement. On December 13, all seven members of the Politburo attended a Party Work Conference on religion. President Jiang Zemin and Premier Zhu Rongji gave speeches at the conference that likely will be the basis for future policy directives. In their speeches, the leaders praised the social work being done by numerous religious institutions and urged "mainstream" religious groups that are presently "underground" to register with the RAB. At the same time, the leaders called for stepped-up measures to eliminate non-mainstream religious groups. Despite official regulations encouraging officials to be atheists, in some localities as many as 20 to 25 percent of Communist Party officials engage in some kind of religious activity. Most officials who practice a religion are Buddhist or practice a folk religion. Religious figures, who are not members of the CCP, are included in national and local government organizations, usually to represent their constituency on cultural and educational matters. The National People's Congress includes several religious leaders, including Pagbalha Geleg Namgyai, a Tibetan reincarnated lama who is a vice chairman of the Standing Committee of the NPC. Religious groups also are represented in the Chinese People's Political Consultative Conference, a forum for "multiparty" cooperation and consultation led by the Chinese Communist Party, which advises the Government on policy.

The authorities permit officially sanctioned religious organizations to maintain international contacts that do not involve "foreign control." What constitutes "control" is not defined. Regulations enacted in 1994, and expanded in September 2000, codified many existing rules involving foreigners, including a ban on proselytizing by foreigners. For the most part, authorities allow foreign nationals to preach to foreigners in approved, registered places of worship, bring in religious materials for personal use, and preach to citizens at churches, mosques, and temples at the invitation of registered religious organizations. Collective religious activities of foreigners also are required to take place at officially registered places of worship or approved temporary locations. Foreigners legally are barred from conducting missionary activities, but foreign Christians currently teaching English and other subjects on college campuses openly profess their faith with minimum interference from authorities as long as their proselytizing is low key. Many Christian groups throughout the country have developed close ties with local officials, in some cases running schools to help educate children who otherwise would receive a substandard education and operating homes for the care of the aged. Likewise, Buddhist-run private schools and orphanages in the central part of the country not only educate children, but also offer professional training courses to teenagers and young adults.

Official religious organizations administer local religious schools, seminaries, and institutes to train imams, Islamic scholars, and Buddhist monks. Students who attend these institutes must demonstrate "political reliability," and all graduates must pass an examination on their theological and political knowledge to qualify for the clergy. The Government permitted limited numbers of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies. In most cases, funding for these training programs is provided by foreign organizations. Both official and unofficial Christian churches have problems training adequate numbers of clergy to meet the needs of their growing congregations. The shortfall is most severe for persons between the ages of 35 and 65. No priests or other clergy in the official churches were ordained between 1955 and 1985. Due to government prohibitions, unofficial churches have particularly significant problems training clergy or sending students to study overseas, and many clergy receive only limited and inadequate preparation. Members of the underground Catholic Church, especially clergy wishing to further their studies abroad, found it difficult to obtain passports and other necessary travel documents (see Section 2.d.).

The widespread traditional folk religions (worship of local gods, heroes, and ancestors) have been revived in recent years and were tolerated to varying degrees as a loose affiliate of Taoism, or as an ethnic minority cultural practice. However, at the same time, folk religions have been labeled as "feudal superstition," and sometimes were repressed. Local authorities have destroyed thousands of local shrines.

Buddhists make up the largest body of organized religious believers. Tibetan Buddhists in some areas outside of the Tibet Autonomous Region (TAR) appear to have growing freedom to practice their faith; however, restrictions remain, especially at those monasteries with close ties to foreign organizations. Monks who study abroad often were prevented from returning to their home monasteries outside of the TAR. There continue to be reports of monks and nuns outside of the TAR who have left monasteries and nunneries to avoid the patriotic education campaigns, which force them to choose between signing oaths with political content or possibly suffering serious consequences. Diplomats have seen pictures of a number of Tibetan religious figures, including the Dalai Lama, openly displayed in parts of Sichuan, Qinghai, and Gansu provinces. Likewise, abbots and monks in those predominantly Tibetan areas outside the TAR report they have greater freedom to worship and conduct religious training than their coreligionists within the TAR. However, beginning in June, the Government began to expel thousands of Tibetan nuns, monks, and students from the Serthar Tibetan Buddhist Institute (also known as the Larung Gar Monastic encampment) located in the Ganze Tibetan Autonomous Prefecture in Sichuan Province. The Government maintained that the facility, which housed the largest concentration of monks and nuns in the country, was reduced in size for sanitation and hygiene reasons. Authorities demolished hundreds of residential structures. Foreign observers believed that the authorities moved against the Institute because of its size and the influence of its charismatic founder, Khenpo Jigme Phuntsok. At year's end, Khenpo Jigme Phuntsok had not returned to the Institute. (A discussion of government restrictions on Tibetan Buddhism in the TAR can be found in the Tibet annex to this report.)

In the past, official tolerance for religions considered traditionally Chinese, such as Buddhism and Taoism, has been greater than that for Christianity. However, as these non-Western faiths have grown rapidly in recent years, there are signs of greater government concern and new restrictions, especially on syncretic sects.

Regulations restricting Muslims' religious activity, teaching, the religious education of youths under the age of 18, and places of worship continued to be tight in Xinjiang, and the Government dealt harshly with Muslims who engaged in political speech and activities that the authorities deemed separatist. Regional-level Communist Party and government officials repeatedly called for stronger management of religious affairs and for the separation of religion from administrative matters. In 2000 the authorities began conducting monthly

political study sessions for religious personnel. In addition they required every mosque to record the numbers and names of those attending each day's activities. The official Xinjiang Daily reported that Yining county early in 2000 reviewed the activities of 420 mosques and implemented a system of linking ethnic cadres to mosques in order to improve vigilance against "illegal religious activities." The authorities also initiated a campaign to discourage overt religious attire such as veils and to discourage religious marriage ceremonies. There were numerous official media reports that the authorities confiscated "illegal religious publications" in Xinjiang. According to a July 2000 report of the International Coalition for Religious Freedom, for the last several years, the Xinjiang People's Publication House, has been the only publisher allowed to print Muslim literature in Xinjiang.

In some areas where ethnic unrest has occurred, particularly among Central Asian Muslims (and especially the Uighurs) in Xinjiang, officials continue to restrict the building of mosques. However, in other areas, particularly in areas traditionally populated by the non-Central Asian Hui ethnic group, there is substantial religious building construction and renovation. Local officials told foreign diplomats that beginning in September, all courses at the Xinjiang Communist Party School were to be conducted in Chinese rather than in the Uighur language. Other officials confirmed that also beginning in September, teachers at Urumqi's Xinjiang University would have to be able to teach classes in Mandarin, in addition to any other language they understood.

The Government permits, and in some cases subsidizes, Muslim citizens who make the hajj (pilgrimage) to Mecca. According to the China Islamic Association, 2,000 Muslims took part in the Hajj as members of official delegations. According to some reports, the major limiting factors for participation in the Hajj were the cost and controls on passport issuance. Other Muslims make the trip to Mecca via neighboring countries, especially Pakistan, and may not be counted in government statistics.

The Government takes some steps designed to show respect for the country's Muslims, such as offering congratulations on major Islamic holidays. However, government sensitivity to concerns of the Muslim community is limited.

The Government so far has refused to establish diplomatic relations with the Holy See, and there is no Vatican representative in the country. The Government's refusal to allow the official Catholic church to recognize the authority of the Papacy in matters such as the ordination of bishops has led many Catholics to refuse to join the official Catholic church on the grounds that this refusal denies one of the fundamental tenets of their faith.

Some bishops in the official Catholic Church are not openly recognized by the Holy See, although many have been recognized privately. Frequently, bishops are consecrated, then later seek Papal approval of their consecrations, sometimes secretly, causing tensions between the Government and the Vatican. Some church members also have indicated that they are unwilling to accept the authority of bishops ordained without Vatican approval. While both government and Vatican authorities state that they would welcome an agreement to normalize relations, issues concerning the role of the Pope in selecting bishops and the status of "underground" Catholic clerics have frustrated efforts to reach this goal. Some "underground" Catholic priests have indicated they are unwilling to accept the authority of bishops selected without Vatican approval. Newly nominated bishops seeking unofficial Papal approval frequently find themselves at odds with other church leaders, who are sympathetic to the central Government, and who insist that consecrations of new bishops be conducted by more senior bishops not recognized by the Vatican. Catholic priests in the official church also face dilemmas when asked by parishioners whether they should follow Church doctrine about government policy restricting the number of children per family. This dilemma is particularly acute when discussing abortion.

Further complicating relations between the Vatican and the Government is a dispute that began in January 2000, when the official Catholic Church consecrated five bishops without Vatican approval. This was followed by the Vatican's canonization of 120 Chinese martyrs on October 1, 2000 (Chinese National Day), a move that angered the country's leaders.

Authorities in some areas continued a concerted effort to crack down on the activities of unapproved Catholic and Protestant churches. Implementing regulations, provincial work reports, and other government and party documents continued to exhort officials to enforce vigorously government policy regarding unregistered churches. For example, Zhejiang Province has restrictive religious affairs regulations, that stipulate that "illegal" property and income would be confiscated from those who: "1) preside over or organize religious activities at places other than those for religious activities or at places not approved by a religious affairs department; 2) do missionary work outside the premises of a place of religious activity; and 3) sponsor religious training activities without obtaining the approval of a religious affairs department at or above the county level." Authorities particularly targeted unofficial religious groups in Beijing and the provinces of Henan and Shandong, where there are rapidly growing numbers of unregistered Protestants, and in Hebei, a center of unregistered Catholics. However, many small family churches, generally made up of family members and friends, that conduct activities similar to those of home Bible study groups, usually were tolerated by the authorities as long as they remained small and unobtrusive. Family churches reportedly encounter difficulties when their memberships become too large, when they arrange for the use of facilities for the specific purpose of conducting religious activities, or when they forge links with other unregistered groups.

There were many religious detainees and prisoners. In some cases, public security officials have used prison or reform-through-education sentences to enforce regulations. In Hebei, where perhaps half of the country's Catholics reside, friction between unofficial Catholics and local authorities continued. Authorities detained underground Bishop Shi Enxiang on Palm Sunday in Beijing, although they later claimed he had been released. According to a Hong Kong human rights organization, in March 2000, 15 members of the China Evangelistic Fellowship were arrested while holding a service in Nanwang City, Henan Province. Two of the group's leaders, Jiang Qinggang and Hao Huaiping, reportedly faced reeducation-through-labor sentences. The director of the Government's RAB had labeled the fellowship publicly as a "cult" at the end of 1999.

Roman Catholic Bishop Zeng Jingmu, released from a labor camp in 1998, reportedly was rearrested in Jiangxi in September 2000 during the visit of a high-ranking foreign Cardinal; the Government denied those reports. The whereabouts of Roman Catholic Bishop Su Zhimin, whose followers report that he was arrested in 1997, remained unclear although officials continued to claim that he was under no form of detention. Underground Catholic sources in Hebei claimed that he still was under detention, while the Government denied having taken "any coercive measures" against him. Reliable sources reported that Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Qianjun remained under detention in Hebei. Underground Catholic Bishop Joseph Fan Zhongliang of Shanghai remained under surveillance and often had his movements restricted.

Some Protestant house church groups reported frequent police raids of worship services and detentions. Several leaders of the unregistered South China Church were arrested in July and subsequently sentenced to death; some of those sentences were suspended and some were appealed. Pastor Li Dexian was detained in April 2000 for 15 days, during which time he was forced into a crouch for 3 days, unable to sleep or use toilet facilities, with his wrists and ankles manacled together. Li also has been detained on other occasions and reported that in some instances he was beaten. In May 2000 seven evangelical Christians were arrested in Henan for violating the "Three Designates" policy that limits religious services to specific venues, requires leaders to preach only within specific areas, and fixes the number of persons permitted to preach. In August 2000, police arrested 130 members of a house church headquartered in Fangcheng City, Henan Province, after they held services with 3 foreign members of a Protestant fellowship organization. Authorities stated that the Fangcheng church was a "cult" that had been banned; the three foreign church members subsequently were released and deported. They reported being beaten while in custody. According to NGO reports, 85 of those arrested from the Fangcheng church were charged in August 2000 with crimes such as "using an illegal cult to obstruct justice."

Authorities also have conducted demolition campaigns against unregistered places of worship. In late 2000, in the central coastal city of Wenzhou, in Zhejiang province, officials razed or closed an unknown number of unregistered places of worship. In addition, local authorities destroyed thousands of local shrines dedicated to traditional folk religion. Although the campaign appeared to have been carried out at the initiative of local religious affairs officials, central government authorities did not criticize the action or take any measures to reprimand those responsible. Two persons who tried to stop a demolition were arrested and sentenced to 2 years of reform-through-education.

The increase in the number of Christians has resulted in a corresponding increase in the demand for Bibles. In 2000 one printing company—a joint venture with an overseas Christian organization—commemorated printing its 25 millionth Bible since its founding in 1987. The organization has printed Bibles in Braille and minority dialects, such as Korean, Jingbo, Lisu, Lahu, Miao, and Yao. Although Bibles can be purchased at some bookstores, they are not readily available and cannot be ordered directly from publishing houses by individuals. However, they are available for purchase at most officially recognized churches, where many house church members buy their Bibles without incident. Nonetheless, some underground Christians hesitate to buy Bibles at official churches because such transactions sometimes involve receipts that identify the purchaser. Foreign experts confirm reports of chronic shortages of Bibles, mostly due to logistical problems in disseminating Bibles to rural areas. The situation has improved in recent years due to improved distribution channels, including to house churches. Customs officials continue to monitor for the "smuggling" of Bibles and other religious materials into the country. Also in July, authorities arrested Hong Kong businessman Li Guangqiang and charged him with smuggling for bringing Bibles into the country. There have been credible reports that the authorities sometimes confiscate Bibles in raids on house churches.

Religious groups that preach beliefs outside the bounds of officially approved doctrine (such as the imminent coming of the Apocalypse, or holy war) or that have charismatic leaders often are singled out for particularly severe harassment. Many groups, especially those in house churches, reportedly are viewed by officials as "cults." Some observers have attributed the unorthodox beliefs of some of these groups to undertrained clergy. Others acknowledge that some individuals may be exploiting the reemergence of interest in religion for personal gain. Police continued their efforts to close down an underground evangelical group called the "Shouters," an offshoot of a pre-1949 indigenous Protestant group. The Government also continued a general crackdown on other groups it considered cults. According to reports, the crackdown on the FLG in 1999 has led to a tightening of controls on all nonofficially sanctioned beliefs. Regulations require all qigong groups to register with the Government. Those that did not were declared illegal.

Weekly services of the foreign Jewish community in Beijing have been held uninterrupted since 1995 and High Holy Day observances have been allowed for more than 15 years. The Shanghai Jewish community was allowed to hold services in an historic Shanghai synagogue, which has been restored as a museum. Local authorities indicated that the community could use the synagogue in the future for special occasions on a case-by-case basis. The Church of Jesus Christ of Latter-Day Saints meets regularly in a number of cities, but its membership is strictly limited to the expatriate community.

The Government continued its harsh and comprehensive campaign against the FLG during the year. Since the Government banned the FLG in 1999, the mere belief in the discipline (and since January, even without any public manifestation of its tenets) has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Although the vast majority of practitioners detained since 2000 were released, those identified by the Government as "core leaders" have been singled out for particularly harsh treatment. More than a dozen FLG members have been sentenced to prison for the crime of "endangering state security," but the great majority of FLG members convicted of crimes by courts since 1999 have been sentenced to prison for "organizing or using a sect to undermine the implementation of the law," a less serious offense. However, most practitioners have been punished administratively. Although firm numbers are impossible to obtain, many thousands of individuals are serving sentences in reeducation-through-labor camps. Other practitioners have been sent to facilities specifically established to "rehabilitate" practitioners who refuse to recant their belief voluntarily.

According to the FLG, hundreds of its practitioners have been confined to mental hospitals. Police often used excessive force when detaining peaceful FLG protesters, including some who were elderly or who were accompanied by small children. During the year, there were numerous credible reports of abuse and even killings of FLG practitioners by the police and other security personnel, including police involvement in beatings, detention under extremely harsh conditions, and torture (including by electric shock and by having hands and feet shackled and linked with crossed steel chains). Various sources report that since 1997 approximately 200 or more FLG adherents have died while in police custody (see Section 1.a.).

FLG practitioners continued their efforts to overcome government attempts to restrict their right to free assembly, especially in Beijing. However, the number of protests by individuals or small groups of practitioners at Tiananmen Square decreased considerably during the period covered by this report (see Section 2.b.). Many attributed the decrease to the public outcry following the January 23 self-immolation of five FLG adherents on Tiananmen Square. This incident, captured on film by surveillance cameras, was aired in graphic detail on television. Others attribute the decline to the success of the Government crackdown on Falun Gong, which, by the end of the year, had essentially eliminated public manifestations of the movement. In August, four persons who organized the self-immolations were sentenced to prison terms from 7 years to life for assisting in the suicide attempts.

According to press reports, after the January 23 self-immolations, the Government launched a massive anti-FLG propaganda campaign and initiated a comprehensive effort to round up practitioners not already in custody, and sanctioned the use of high pressure indoctrination tactics against the group in an effort to force them to renounce the FLG. Neighborhood committees, state institutions (including universities), and companies reportedly were ordered to send all known FLG practitioners to intensive anti-FLG study sessions. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend such classes. Those who refused to recant their beliefs after weeks of intensive anti-FLG instruction reportedly were sent to reeducation-through-labor camps, where in some cases, beatings and torture were used to force them to recant their beliefs; some of the most active FLG practitioners were sent directly to reeducation-through-labor camps. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement.

Authorities also detained foreign practitioners. In November more than 30 foreigners and citizens resident abroad were detained in Beijing as they demonstrated in support of the FLG. They were expelled from the country; some credibly reported being mistreated while in custody. In November 2000, FLG practitioner and U.S. resident Teng Chunyan was tried on charges of providing national security information to foreigners, reportedly for providing information about the Government's crackdown on FLG. In December 2000, she was sentenced to 3 years of reeducation-through-labor. In November she recanted her allegiance to FLG on national television.

During the year, the authorities also continued a general crackdown on other groups considered to be "cults," often using the October 1999 decision to ban cults under Article 300 of the Criminal Law. Regulations require all qigong meditation and exercise groups to register with the Government. Those that did not were declared illegal. The Zhong Gong qigong group, which reportedly had a following rivaling that of Falun Gong, was banned in 2000 under the anticult application of the Criminal Law, and its leader, Zhang Hongbao, who resides abroad, was charged with rape, forgery, and illegal crossing of boundaries. Two leaders of other qigong groups also reportedly were arrested in 2000, and the Government banned the practice of qigong exercises on public or government property. This has created an atmosphere of uncertainty for many qigong practitioners, and there are reports that some qigong practitioners now fear practicing or teaching openly. In August police in Jiangsu arrested Shen Chang, the leader of a qigong group, and charged him with organizing gatherings aimed at disturbing social order and tax evasion. There were reports that 14 unofficial Christian groups and a Buddhist organization (known as Guanyin Famin) were branded by the Government as "evil cults," as well. During the year, authorities and experts wrote many articles characterizing the rise of religious groups that failed to register and "cults" such as FLG as part of a plot by the West to undermine Chinese authority. In February, Zhang Xinying, vice chairman of the Chinese Society of Religious Studies, said that the rise of "cults" was due to the frequent abuse of the concept of "religious freedom" by "some people with ulterior motives." Senior leaders made similar comments, in the context of condemning FLG.

The Government teaches atheism in schools. The participation of minors in religious education is prohibited by regulation. However, enforcement varies dramatically from region to region, and in some areas large numbers of young persons attend religious services at both registered and unregistered places of worship.

#### Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Government restricts freedom of movement within the country and restricts the freedom to change one's workplace or residence. The Government's national household registration/identification card system, used to control and restrict the location of an individual's residence, is being liberalized and the ability of most citizens to move around the country to live and work continued to improve. However, the Government retained the ability to restrict freedom of movement through other mechanisms, and it increased restrictions during the year, especially before politically sensitive anniversaries and to forestall FLG demonstrations. The "floating population" of economic migrants leaving their home areas to seek work elsewhere in the country was estimated to be between 80 and 130 million. There also were a growing number of middle-class professionals attracted to large cities by hopes of better paying jobs in their fields. This itinerant population lacks permanent residence status, which is required for full access to social and educational services. Unless such persons obtain resident status, they generally must pay a premium for these services. However, some cities, such as Beijing, are offering some social services free of charge.

Prior to sensitive anniversaries, authorities in urban areas rounded up "undesirables," including the homeless, the unemployed, migrant workers, those without proper residence or work permits, petty criminals, prostitutes, and the mentally ill or persons with disabilities. These persons often were detained or expelled under custody and repatriation regulations or similar administrative regulations (see Sections 1.d. and 1.e.). There were reports of spot checks of identification documents, housing raids, and harassment of migrants at train and bus stations in Beijing during the year, particularly prior to the October 1 National holiday.

Dissidents reported that the authorities restricted their freedom of movement during politically sensitive periods or while foreign dignitaries visited the country.

Under the "staying at prison employment" system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities have denied certain inmates permission to return to their homes after serving their sentences. Those inmates sentenced to a total of more than 5 years in reeducation-through-labor camps on separate occasions also may lose their legal right to return home. For those assigned to camps far from their residences, this practice constitutes a form of internal exile. The number of prisoners subject to this restriction is unknown. Authorities reportedly have forced others to accept jobs in state enterprises where they can be monitored more closely after their release from prison or detention. Other released or paroled prisoners returned home but were not permitted freedom of movement. The authorities released former Zhao Ziyang aide Bao Tong in 1997, but continue to monitor his activities closely. Former senior leader Zhao Ziyang remained under house arrest, and security around him was tightened routinely during sensitive periods, such as the anniversary of the Tiananmen massacre and during the visits of important foreign leaders. Zhao has been allowed about one trip outside of Beijing per year.

Official poverty alleviation programs, and major state projects such as building the Three Gorges Dam and environmental or reforestation projects, include forced evacuation of persons to new residences.

The Government permits legal emigration and foreign travel for most citizens. Passports increasingly are easy to get. The Government continued to use political attitudes as criteria for selecting persons for Government-sponsored study abroad.

The Government did not control privately sponsored students, who constitute the majority of citizens studying abroad. There were some reports that academics faced travel restrictions around the year's sensitive anniversaries, especially June 4. Members of the underground Catholic Church, especially clergy wishing to further their studies abroad, found it difficult to obtain passports and other necessary travel documents. Business travelers who wish to go abroad can obtain passports relatively easily. Permission for married couples to travel abroad sometimes was conditioned on an agreement to delay childbirth. The Government continued efforts to attract persons who had studied overseas back to the country. Official media have stated in the past that persons who have joined foreign organizations hostile to the country should quit them before returning home and refrain while abroad from activities that violate the country's laws. Some FLG members reportedly had difficulty in obtaining passports during the year, but this does not appear to be a national policy.

There also were instances in which the authorities refused visas or entry on apparent political grounds. In May the Government prevented Dr. Gao Yaojie, who had exposed the cause of an AIDS epidemic in several villages, from traveling abroad to receive an award. International observers and human rights organizations reported that they could substantiate claims that border control stations keep background records of certain individuals who are to be denied entry. Authorities have denied these reports. Some foreign academics, who have published sensitive material, also continue to be denied visas.

The country has no law or regulation that authorize the authorities to grant refugee status, but the Government reportedly continues to draft working rules on granting such status. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos also resident in the country; the Government is less cooperative when dealing with some other refugees. The Government does not provide first asylum. However, since the late 1980's, the Government has adopted a de facto policy of tolerance toward the small number of persons—fewer than 100 annually—from other nations who have registered with the Beijing office of the United Nations High Commissioner for Refugees (UNHCR) as asylum seekers. The Government has permitted these persons to remain in the country while the UNHCR makes determinations as to their status and—if the UNHCR determines that they are bona fide refugees—while they await resettlement in third countries.

The Government has worked with Laos and Cambodia to facilitate the return of resettled individuals who have decided to return to their home countries. The Government denies having tightened its policy on accepting Vietnamese asylum seekers. Due to the stable situation in Vietnam of ethnic Chinese and the increasingly porous border between the two countries, very few Vietnamese have sought resettlement in China in recent years.

There were credible reports that North Korean migrants were forcibly returned to their homeland where many feared persecution. A family of North Korean refugees who sought shelter at the Beijing office of the UNHCR in June was allowed to leave China for resettlement in a third country.

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

Citizens lack the right to change their Government peacefully and cannot freely choose or change the laws and officials that govern them. Rural citizens vote directly for their local village committees, which are not considered to be government bodies, and among party-reviewed candidates for delegate positions in township

and county-level people's congresses. However, people's congress delegates at the provincial level are selected by county-level people's congresses, and in turn provincial-level people's congresses select delegates to the National People's Congress. Although the CCP vets at least to some degree candidates for all elections above the village level, many county and provincial elections are competitive, with more candidates running than there are seats available.

According to the Constitution, the NPC is the highest mechanism of state power. Formally, it elects the President and Vice President, selects the Premier and Vice Premiers, and elects the Chairman of the State Central Military Commission. In practice, the NPC Standing Committee oversees these elections and determines the agenda and procedure for the NPC under the direct authority of the CCP's Politburo Standing Committee. The NPC does not have the power to set policy or remove Government or party leaders. However, in some instances its actions have affected economic policy.

In general, the election and agenda of people's congresses at all levels remain under the firm control of the CCP, the paramount source of political authority. A number of small "democratic" parties that date from before the Communist takeover in 1949 play a minor consultative role and must pledge their allegiance to the CCP. The CCP retains a tight rein on political decision-making and forbids the creation of new political parties. The Government continued efforts to suppress the China Democracy Party, an organization that had attracted hundreds, perhaps thousands, of members nationwide since its founding in 1998. Public security forces have arrested nearly all of its most important leaders. Since December 1998, at least 30 core leaders of the CDP have been sentenced to long prison terms on subversion charges. In December 2000, CDP activists Wang Zhen and Wang Wenjiang reportedly were sentenced in Anshan to 6 years and 4 years in prison, respectively, on charges of subverting state power. The two were arrested in June 1999.

Despite CCP control of the Government, limited democratic decisionmaking at the local level continued to grow as the local village committee elections program expanded. However, many observers caution that the village election system is not necessarily a precursor for democracy at higher levels of Government, and village elections—as currently practiced—do not yet pose a counterweight to the implementation of unpopular central policies or the leading role of the Communist Party. The elected village committees are not part of the formal Government structure and have no formal constitutional role. The village committees have no power to tax, set fines or punishments independently, or hire or fire village enterprise managers. Nonetheless, most committees have the authority to mediate disputes between villagers, improve public order, and authorize small expenditures. The committees also carry out political work by serving as a channel of communication between villagers and the Government.

Under the Organic Law of the Village Committees, all of the country's approximately 1 million villages are expected to hold competitive, direct elections for subgovernmental village committees. A 1998 revision to the law called for improvements in the nominating process and improved transparency in village committee administration. The revised law also explicitly transferred the power to nominate candidates to the villagers themselves, as opposed to village groups or party branches. There have been several township elections in the past few years.

According to the Ministry of Civil Affairs, the majority of provinces have carried out at least three or four rounds of village elections. Foreign observers who have monitored local village committee elections and have judged the elections they observed, on the whole, to have been fair. However, many villages have yet to hold truly competitive elections. The Government has estimated that a significant number of elections have serious procedural flaws; some rebaloting occurs when irregularities are significant.

Candidates favored by local authorities have been defeated in some elections, although in general the CCP dominates the local electoral process, and roughly 60 percent of the members elected to the village committees are CCP members. In many villages, villagers are given ballots with a space for write-in votes; in at least one case, a write-in candidate won. The final ballot is the culmination of an election process that includes government screening of candidates and an indirect vote that eliminates some candidates.

The Government places no restrictions on the participation of women or minority groups in the political process; however, the percentage of women in government and politics does not correspond to their percentage of the population. Women freely exercise their right to vote in village committee elections, but only a small fraction of elected members are women. The Government and Party organizations include approximately 12 million female officials out of 61 million Party members. Women constitute 21.83 percent of the National People's Congress. The 15th Party Congress elected 22 women to serve as members or alternates on the 193-person Central Committee, an increase over the total of the previous committee. However, women still hold few positions of significant influence at the highest rungs of the Party or government structure. One alternate member of the 22-member Politburo is a woman, and women hold 2 of 29 ministerial-level positions.

Minorities constitute 14 percent of the National People's Congress, although they make up approximately 9 percent of the population. All of the country's 56 nationalities are represented in the NPC membership. The 15th Party Congress elected 38 members of ethnic minorities to serve as members or alternates on the Central Committee, an increase over the total of the previous committee. However, minorities hold few senior Party or government positions of significant influence.

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

The Government does not permit independent domestic NGO's to monitor or to comment on human rights conditions. It is difficult to establish an NGO, and the Government tends to be suspicious of independent

organizations; most existing NGO's are quasi-governmental in nature and are closely controlled by government agencies (see Section 2.b.). However, an informal network of dissidents in cities around the country has become a credible source of information about government actions taken against activists. The information is disseminated outside of the country through organizations such as the Hong Kong-based Information Center for Human Rights and Democracy and the New York-based Human Rights in China. The press regularly prints articles about officials who exceed their authority and infringe on citizens' rights. However, the Government remains reluctant to accept criticism of its human rights record by other nations or international organizations and criticizes reports by other countries and international human rights monitoring groups, maintaining that such reports are inaccurate and interfere with the country's internal affairs. The Government still maintains that there are legitimate, differing approaches to human rights based on each country's particular history, culture, social situation, and level of economic development. The Government established the China Society for Human Rights, a "nongovernmental" organization whose mandate is not to monitor human rights conditions, but to defend the Government's views and human rights record.

The Government has active human rights dialogues with many countries, including Great Britain, France, Australia, Canada, Norway, Brazil, the United States, and Japan, as well as with the European Union (EU). However, the Government has not taken concrete steps to bring its human rights practices into compliance with international human rights instruments during the period in which the dialogs have taken place.

In May 2000, the U.N. Committee Against Torture issued a report expressing concern about continuing allegations of serious incidents of torture, especially involving Tibetans and other national minorities. Recommendations included defining torture in domestic law, abolishing administrative detention (including reeducation-through-labor), investigating promptly allegations of torture, and providing training courses on international human rights standards for police. Government officials noted that steps have been taken to address torture by officials, and acknowledged that problems remain in supervising the judicial system. In November 2000, the Government signed a Memorandum of Understanding (MOU) with the U.N. High Commissioner on Human Rights (UNHCHR) designed to help the country comply with the terms of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, which the Government has signed but not ratified. Under the MOU, programs to be implemented include human rights education for judges, prosecutors, and police; other human rights education programs; the publication of reports; and fellowships for experts to study abroad. The Government indicated that the new U.N. Special Rapporteur on Torture would be welcome, but no agreement has yet been reached concerning a visit. The Government did not allow the International Committee of the Red Cross to visit the country.

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

There are laws designed to protect women, children, persons with disabilities, and minorities. However, in practice, societal discrimination based on ethnicity, gender, and disability persists. The concept of a largely homogeneous Chinese society pervades the thinking of the Han majority.

#### Women

Violence against women is a significant problem. Violence against women can be prosecuted under the law. There is no national law specifically targeting domestic violence, although amendments to the Marriage Law, adopted in April, are aimed in part at providing protection against spousal abuse. NPC members claim that most of the 33 changes to the Marriage Law were designed to support the rights of women and children. In recognition of the seriousness of spousal abuse, 13 provinces and provincial level cities have passed legislation to address the problem. Sociologists note that there has been no detailed research on the extent of physical violence against women. However, anecdotal evidence suggests that the reporting of domestic abuse is on the rise, particularly in urban areas, because greater attention has been focused on the problem. A July 2000 survey report by the All China Women's Federation (ACWF) found that violence occurs in 30 percent of families, with 80 percent of cases involving husbands abusing their wives. Actual figures may be higher because spousal abuse still goes largely unreported. According to experts, the percentage of households in which domestic abuse has occurred is higher in rural areas than in urban centers. The survey found that domestic violence occurs at all socioeconomic levels. According to ACWF research, 40 percent of the complaints it fielded in 2000 involved family violence, and 60 percent of divorces were due to family violence. According to some experts, many women do not report domestic violence to the police because, even when appropriate legislation exists, local law enforcement authorities frequently choose not to interfere in what they regard as a family matter. Nonetheless in two recent cases in Liaoning province, men successfully were prosecuted for severe cases of domestic violence. Despite an increasing awareness of the problem of domestic violence, there are no shelters for victims of domestic violence. Rape is illegal.

Central government policy formally prohibits the use of force to compel persons to submit to abortion or sterilization; however, the intense pressure to meet family planning targets set by the Government has resulted in documented instances in which family planning officials have used coercion against women, including forced abortion and sterilization, to meet government goals (see Section 1.f).

According to some estimates by experts, there are 4 to 10 million commercial sex workers in the country. The increased commercialization of sex and related trafficking in women has trapped thousands of women in a cycle of crime and exploitation, and left them vulnerable to disease and abuse. According to the official Xinhua News Agency, one in five massage parlors in the country is involved in prostitution, with the percentage higher in cities. Unsafe working conditions are rampant among the saunas, massage parlors, clubs, and hostess bars that have sprung up in large cities. According to one estimate, there are 70,000 prostitutes in Beijing alone; other estimates have placed the number as high as 200,000 or more. Research indicates that up to 80 percent of prostitutes in some areas have hepatitis. Sexual transmission of HIV/AIDS is a growing concern. Although the central Government and various provincial and local governments have attempted to crack down on the

sex trade, there have been numerous credible reports in the media of complicity in prostitution by local officials. Thus far actions to crack down on this lucrative business, which involves organized crime groups and businesspersons as well as the police and the military, largely have been ineffective.

Trafficking in women and children and the kidnaping and sale of women and children for purposes of prostitution and/or marriage are serious problems (see Sections 6.c. and 6.f.).

There is no statute that outlaws sexual harassment in the workplace. The problem remains unaddressed in the legal system and often in society. There have been reports that due to the lack of legal protections and to women's increasing economic vulnerability, many victims of sexual harassment do not report it out of fear of losing their jobs. However, experts state that more women are raising their concerns about sexual harassment because of greater awareness of the problem.

The Government has made gender equality a policy objective since 1949. The Constitution states that "women enjoy equal rights with men in all spheres of life." The 1992 Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. Women's economic and political influence has increased. Nonetheless, female activists increasingly are concerned that the progress that has been made by women over the past 50 years is being eroded and that women's status in society regressed during the 1990's. They assert that the Government appears to have made the pursuit of gender equality a secondary priority as it focuses on economic reform and political stability. Social and familial pressure also has grown for women to resume their traditional roles as wives and mothers. A recent study of how women are portrayed in the media revealed that images of a woman's worth increasingly are linked to her ability to attract a wealthy husband and be a good mother.

The Law on the Protection of Women's Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Efforts have been made by social organizations as well as the Government to educate women about their legal rights, and there is anecdotal evidence that women increasingly are using laws to protect their rights. For example, at Fudan University in Shanghai, the Women's Study Center with the support of Shanghai's labor union has established a hot line to inform workers, mainly women, of their legal rights.

Nevertheless, women frequently encounter serious obstacles in getting laws enforced. According to legal experts, it is very hard to litigate a sex discrimination suit because the vague legal definition makes it difficult to quantify damages. As a result, very few cases are brought to court. Some observers also have noted that the agencies tasked with protecting women's rights tend to focus on maternity-related benefits and wrongful termination during maternity leave rather than sex discrimination or sexual harassment. The structure of the social system also prevents women from having a full range of options. Women who seek a divorce face the prospect of losing their housing since government work units allot housing to men when couples marry.

Women have borne the brunt of the economic reform of state-owned enterprises. As the Government's plan to revamp state-owned enterprises is carried out, millions of workers have been laid off. Of those millions, a disproportionate percentage are women, many of whom do not have the skills or opportunities to find new jobs. Women between the ages of 35 and 50 were the most affected, and the least likely to be retrained. In addition female employees are more likely to be required to take pay cuts when a plant or company is in financial trouble. There have been reports that many women have been forced or persuaded into early retirement as well. Discriminatory hiring practices appear to be on the increase as unemployment rises. Increasingly companies discriminate by both sex and age, although such practices violate labor laws.

Many employers prefer to hire men to avoid the expense of maternity leave and childcare and some even lower the effective retirement age for female workers to 40 years of age (the official retirement age for men is 60 years and for women 55 years). Lower retirement ages have the effect of reducing pensions, which generally are based on years worked.

The law provides for equal pay for equal work. However, a recent Government survey found that women were paid only 70 to 80 percent of what men received for the same work. Most women employed in industry work in lower skilled and lower paid jobs.

According to the most recent figures, women made up approximately 70 percent of the country's illiterate population. A 1998 Asian Development Bank report estimated that 25 percent of all women are semi-literate or illiterate, compared with 10 percent of men; illiteracy in rural areas generally is higher. The Government's "Program for the Development of Chinese Women (1995-2000)" set as one of its goals the elimination of illiteracy among young and middle-aged women by the end of the century; however, this goal was not met.

A high female suicide rate is a serious problem. According to the World Bank, Harvard University, and the World Health Organization, some 56 percent of the world's female suicides occur in China (about 500 per day), a far higher percentage than the country's claim to 22 percent of the world's population. The World Bank estimated the suicide rate in the country to be three times the global average; among women, it was estimated to be nearly five times the global average. Research indicates that the low economic and social status of women is among the leading causes.

While the gap in the education levels of men and women is narrowing, men continue to constitute the majority of the relatively small percentage of the population that receives a university-level education. However, educators in the large cities have reported that there is a trend toward greater gender balance in universities. Some academics have reported that in some departments women are beginning to outnumber men—even in

some graduate schools. Women with advanced degrees report an increase in discrimination in the hiring process as the job distribution system has opened up and become more competitive and market driven.

#### Children

The Constitution provides for 9 years of compulsory education for children, but in economically disadvantaged rural areas, many children do not attend school for the required period, if at all. Public schools are not allowed to charge tuition, but faced with revenue shortfalls since the central Government largely stopped subsidizing primary education in the early 1990's, many public schools have begun to charge mandatory fees. Such fees make it difficult for poorer families to send their children to school or send them to school on a regular basis. Some charitable schools have opened in recent years in rural areas, but not enough to meet demand. Children of migrant workers in urban areas also often do not attend school. Although they may be allowed to do so if they pay required school fees, these fees usually are higher for non-residents and often are more than their parents can afford. The Government campaign for universal primary school enrollment by 2000 (which was not met by year's end) has helped to increase enrollment in some areas. It also reportedly has led to school officials inflating the number of children actually enrolled.

An extensive health care delivery system has led to improved child health and a sharp decline in infant mortality rates. According to 1997 official figures, the infant mortality rate was 33 per 1,000 in 1996. According to UNICEF, in 1995 the mortality rate for children under 5 years of age was 47 per 1,000 live births.

Children reportedly are detained administratively in custody and repatriation centers, either for minor crimes they have committed or because they are homeless. Such children routinely are detained with adults, and may be required to work (see Sections 1.d, 1.e., and 6.c.).

Despite Government efforts to prevent kidnaping and the buying and selling of children, these problems persist in some rural areas (see Section 6.f.). There are no reliable estimates of the number of children trafficked. Domestically, most trafficked children are sold to couples unable to have children; in particular, boys are trafficked to couples unable to have a son. Children also are trafficked for labor purposes. Girls and women are trafficked and sold as brides.

The Law on the Protection of Juveniles forbids infanticide, as well as mistreatment or abandonment of children. However, according to the SFPC, only a handful of doctors have been charged with infanticide under this law. The law prohibits discrimination against disabled minors, and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution. Female infanticide, sex selective abortions, the abandonment of baby girls, and the neglect of baby girls remain problems due to the traditional preference for sons, and the family planning policy, which limits urban couples to one child and rural couples to two. Many families, especially in rural areas, have used ultrasound to identify female fetuses and to terminate pregnancies; however, no reliable statistics are available on the extent of the problem (see Section 1.f.). Estimates from previous years indicate that a very high percentage of pregnancies terminated are of female fetuses. Female babies also suffer from a higher mortality rate than male babies, contrary to the worldwide trend. Neglect of baby girls is one factor in their lower survival rate. One study found the differential mortality rates to be highest in areas where women have a lower social status, where economic and medical conditions are poor, and where family planning regulations are strictly enforced (although the correlation for this factor was weak).

Government statistics put the national ratio of male to female births at 114 to 100; the World Health Organization estimates the ratio to be 117 to 100. The statistical norm is 106 male births to 100 female births. According to demographers in the country, currently there may be as many as 100 million more men than women. A part of the statistical gap may be attributable to female infanticide, but experts say that sex-selective termination of pregnancies, abandonment and neglect of baby girls, and underreporting of female births by couples trying to evade family planning laws to try to have a son are more significant factors (see Section 1.f.).

Child labor is a problem (see Section 6.d.)

According to the latest available figures, compiled in 1994, the number of children abandoned each year is approximately 1.7 million, despite the fact that, under the law, child abandonment is punishable by a fine and a 5-year prison term. The vast majority of those eventually admitted to orphanages are female, although some are males who are either disabled or in poor health. Children put up for foreign adoption are almost exclusively girls. The treatment of children in some orphanages has improved, especially with the increased attention created by foreign adoptions, but problems remain. Accurate determination of infant mortality rates in orphanages is difficult, but rates appear to be high at many, especially among new arrivals. However, conditions in some other orphanages appear to be adequate, if Spartan. In recent years, some privately run orphanages (not funded by the State) have opened, in which conditions may be generally better for children. In areas where such orphanages operate, some state-run orphanages have exhibited a willingness to learn from them and to adopt some of their more modern practices.

The Government denies that children in orphanages are mistreated or refused medical care, but acknowledges that the system often is unable to provide adequately for some children, especially those who are admitted with serious medical problems. In an effort to address this problem, in 1998 the NPC revised the adoption law to make it easier for couples to adopt. The new law dropped a restriction that parents who adopt a child must be childless. It also allows for multiple adoptions and lowers the age at which couples are eligible to adopt. Since 1997, there have been credible reports of new construction, renovation, and improved care in some areas. Over \$30 million (248.4 million RMB) reportedly was allocated for this program.

### Persons With Disabilities

The Government has adopted legislation that protects the rights of the country's persons with disabilities. According to the official press, all local governments have drafted specific measures to implement the law. The press publicizes both the plight of persons with disabilities and the Government's efforts to assist them. The Government, at times in conjunction with NGO's such as the Lions Club International, sponsors a wide range of preventive and rehabilitative programs, including efforts to reduce congenital birth defects, treat cataracts, and treat hearing disorders. The goal of many of these programs is to allow persons with disabilities to be integrated into the rest of society.

However, reality for persons with disabilities lags far behind legal dictates, and many do not receive or have access to special assistance or to programs designed to assist them. Misdiagnosis, inadequate medical care, pariah status, and abandonment remain common problems. According to reports, parents of children with disabilities often are persuaded by doctors to place their children in large government-run institutions, often far from their parents, and in which care often is substandard. Those parents who choose to keep such children at home generally face difficulty in getting adequate medical care, day care, and education for them. Government statistics show that almost one-quarter of the approximately 60 million persons with disabilities live in extreme poverty. According to 1998 Government statistics, the unemployment rate for persons with disabilities is 26.7 percent, a decrease from the past, but still almost 10 times the official rate for the general population. The Government's strategy is to integrate persons with disabilities into the mainstream work force, but these efforts are running into a cultural legacy of discrimination and neglect. To date, the program has had little effect. Standards adopted for making roads and buildings accessible to persons with disabilities are subject to the Law on the Handicapped, which calls for their "gradual" implementation. Lax compliance with the law has resulted in only limited access to most buildings.

Deng Pufang, son of the late national leader Deng Xiaoping, is a paraplegic and heads the China Welfare Fund for the Handicapped and the China Disabled Persons' Federation (CDPF), government-affiliated organizations tasked with assisting persons with disabilities.

The Maternal and Child Health Care Law forbids the marriage of persons with certain specified contagious diseases or certain acute mental illnesses such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization.

In 1998 the Adoption Law was revised to loosen age restrictions on adoption. This change, which was intended to facilitate adoption, may have unintended consequences for children with special needs. In the past, individuals under the age of 35 could adopt only children with special needs. The minimum age for adopting a healthy child is now set at 30 instead of 35. Some observers worry that the law, which became effective in 1999, may eliminate the age-based incentive for the adoption of children with special needs.

Persons in urban areas who are mentally ill or disabled and are found on city streets can be detained administratively under custody and repatriation regulations, ostensibly for their protection (see Sections 1.d. and 1.e.). The conditions under which they are held in such centers reportedly are poor and they may be required to work.

### National/Racial/Ethnic Minorities

According to 1995 Government statistics, the total population of the country's 55 ethnic minorities was 108.46 million, or 8.98 percent of the total population. Most minority groups reside in areas they traditionally have inhabited, many of which are mountainous or remote. The Government's avowed policy on minorities calls for preferential treatment in marriage regulations, family planning, university admission, and employment. However, in some areas, ethnic minorities, especially those living in urban areas, have been subjected to pressure to limit births to the lower number allowed Han Chinese (see Section 1.f.). Programs have been established to provide low-interest loans, subsidies, and special development funds for minority areas. Nonetheless, in practice, minorities face discrimination. Most of the minorities in border regions are less educated than the national average, and job discrimination in favor of Han migrants remains a serious problem. Racial discrimination is the source of deep resentment on the part of minorities in some areas, such as Xinjiang and Tibet. The Government does not openly recognize racism against minorities or tension among different ethnic groups as problems.

Government development policies have long been in place to improve minority living standards. However, real incomes in minority areas, especially for non-Han groups, remain well below those in other parts of the country, and minorities credibly claim that the majority Han Chinese have benefited disproportionately from Government programs and economic growth. Many development programs have disrupted traditional living patterns of minority groups, including Tibetans and the Muslim Turkic majority of western Xinjiang. For example, there is evidence that official poverty alleviation programs and major state projects, such as building dams and environmental/reforestation projects, include the forced evacuation of persons (see Section 2.d.). Since 1949, central Government and economic policy have resulted in a significant migration of Han Chinese to Xinjiang. According to a Government white paper, in 1998 there were approximately 8 million Uighurs, 2.5 million other ethnic minorities, and 6.4 million Han in Xinjiang, up from 300,000 Han in 1949.

In many areas with a significant population of minorities, there are two-track school systems using either Mandarin Chinese or the local minority language. Students can choose to attend schools in either system. Originally designed to protect and maintain minority cultures, this divided education system places those

graduating from minority schools at a disadvantage in competing for jobs in Government and business, which require good Chinese-language skills. Graduates of these schools typically need 1 year or more of intensive Chinese before they can cope with course work at a Chinese-language university.

The Communist Party has an avowed policy of boosting minority representation in the Government and the CCP, and minorities constitute 14 percent of the National People's Congress, which is higher than their percentage in the population. A September 1999 Government white paper reported that there were 2.7 million minority officials in the Government. According to Government statistics, there were 163,000 minority officials in the Inner Mongolia Autonomous Region. Minority officials constitute 23.3 percent of the region's total, exceeding the ratio of the minority population to Han Chinese in the region. Many members of minorities occupy local leadership positions, and a few have positions of influence in key local Party positions or at the national level. However, in most areas, ethnic minorities are shut out of positions of real political and economic power in minority autonomous regions.

Tensions between ethnic Han citizens and Uighurs in Xinjiang continued. Authorities have cracked down harshly on suspected Uighur nationalists and independent Muslim religious leaders. They also imposed tighter restrictions on political, civil, and religious freedoms. There were numerous reports during the year that Uighurs were being executed or sentenced to long prison terms for separatist activities.

In April, immediately after the start of the "strike hard" campaign, 25 political activists in Kashgar prefecture were arrested for allegedly conspiring to set up an "Eastern Turkistan Republic." Charges ranged from "endangering state security" to "illegally setting up an organization," although human rights groups state that no specific act committed by the group was mentioned. In Atush, Akqi, and Akto counties, 24 persons were sentenced publicly, including 2 sentenced to death, for "sabotaging public order and the social stability." Three Uighurs were sentenced in April for being members of the "1999 9th August disturbances" which actually was a demonstration in front of the local Communist party building to protest the arrest of an imam. In Aksu prefecture, 186 persons were arrested for offenses such as "endangering state security," and illegal religious publications were reportedly seized. In Urumqi, the capital, 8 persons accused of having endangered social stability were sentenced to prison terms of between 4 and 13 years. According to official accounts, by May the authorities were prosecuting over 3,000 cases and massive public sentencing rallies attended by more than 300,000 persons had been held throughout the region. In March 2000, a Xinjiang court sentenced Rebiya Kadeer, a prominent Uighur businesswoman and former member of the provincial-level Chinese People's Political Consultative Conference, to 8 years in prison on charges of "passing state intelligence" to foreigners; according to an official press report, the intelligence she was accused of passing included newspaper articles and a list of names of persons whose cases had been handled by the courts. Kadeer, her son, and her secretary were arrested while on their way to meet a visiting foreign delegation in 1999. Many foreign observers believe Kadeer was singled out for her activism on behalf of Uighurs and for her husband's involvement with Uighur causes and Radio Free Asia in the United States. Many Uighurs have been detained for listening to RFA.

A campaign to stress ethnic unity and to condemn "splittism" and religious extremism that began in Xinjiang in 1997 continued. Authorities maintained tight control over "separatist activities," announced tightened security measures, and mounted campaigns to crack down on opposition during the year. Because the Xinjiang Uighur Autonomous Region Government regularly lists together those involved in "ethnic separatism, illegal religious activities, and violent terrorism," it is often unclear whether particular raids, detentions, arrests, or judicial punishments target those peacefully seeking their political goals or those engaged in violence.

Possession of separatist publications or audiovisual materials is not permitted, and, according to reports, possession of such materials has resulted in lengthy prison sentences. The author of a history of the Uighurs that was severely criticized by provincial-level and national authorities in the mid-1990s remains prohibited from publishing or from meeting with foreigners. A Uighur-language press exists in Xinjiang, but it has a very small circulation, and much of the population depends on market rumors for information.

According to some estimates, the migration of ethnic Han into Xinjiang in recent decades has caused the Han-Uighur ratio in Urumqi to shift from 20 to 80 to 80 to 20, and is a source of Uighur resentment. By some estimates, 250,000 Han have moved into the region annually in the last few years. Han control of the region's political and economic institutions also has been a factor in the growth of tension. Although government policies have brought tangible economic improvements to Xinjiang, Uighurs maintain that Han receive a disproportionate share of the benefits. The majority of Uighurs are poor farmers, and 25 percent are illiterate.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution provides for freedom of association. However, in practice, workers are not free to organize or join unions of their own choosing. The All-China Federation of Trade Unions (ACFTU), which is controlled by the Communist Party and headed by a key Party official, is the sole legal workers' organization. The ACFTU chairman is a member of the Standing Committee of the Central Committee of the Communist Party. The Trade Union Law gives the ACFTU control over the establishment and operation of all subsidiary union organizations and activities throughout the country, including approximately 500,000 enterprise-level unions. Independent unions are illegal. The Trade Union Law allows workers to decide whether to join official unions in their enterprises. There have been no reports of repercussions for the small percentage of workers in the state-owned sector who have not joined.

Although the ACFTU and its constituent unions have a monopoly on trade union activity, their influence over the workplace has diminished with the economic reforms of recent years. ACFTU unions have been relatively

powerless to protect the tens of millions of members who have lost their jobs in recent years or, for those still employed, had their wages or benefits delayed or cut in the massive restructuring of state-owned enterprises. The unions have, however, provided benefits and reemployment assistance to affected workers.

The ACFTU also has had difficulty organizing in the country's rapidly growing private sector where union membership during the year was estimated to be less than 20 percent. The presence of Communist Party representatives in a small percentage of private enterprises, and of nonunion worker organizations in some state-owned enterprises has done little to alter the fact that the great majority of workers in the private sector have no official union representation. The ACFTU's loss of membership in the state-owned sector and its weakness in the private sector have reduced ACFTU membership from nearly 100 percent of the urban workforce during the height of the planned economy to approximately 50 percent (or 103 million) during the year, according to the ACFTU.

The existence of an enormous rural labor force—some 550 million out of a total labor force of about 750 million—also complicates the organization and protection of workers. Farmers do not have a union or any other similar organization. Of some 125 million rural residents working in township and village enterprises (TVE's), only a very small percentage are represented by a union. A "floating" migrant labor force of over 100 million has proven especially difficult to organize and protect. Some of these migrants gravitate to temporary or seasonal low-wage work in urban areas where their residence, under the country's registration system, often is technically illegal. Many migrants, including numbers of young women, are attracted to the burgeoning private sector where unions are few and where their desire to earn more than they can in rural areas makes them easy to exploit.

Faced with these difficulties, the ACFTU strongly supported major amendments to the Trade Union Law, passed by the NPC in October. The amended law gives the ACFTU clearer responsibility than previously to represent workers' interests first and foremost. The amendments also give union organizing activities in the private sector legal protection that previously was lacking. The amended law provides specific legal remedies against attempts by employers to interfere with these organizing activities or to punish union officials for failure to carry out official duties.

During the year, the Government maintained its longstanding rejection of illegal union activity. The amendments to the Trade Union Law did not change the official legal monopoly of the ACFTU. Moreover, when it ratified the International Covenant on Economic, Social, and Cultural Rights in February, the Government stated that it would apply the Covenant's provision for freedom of association in accordance with the country's actual conditions. This meant, in practice, a continuation of the legal prohibition on independent unions.

During the year, the Government, as in the past, took specific actions against illegal union activity, including the detention or arrest of labor activists. Li Wangyang, who had been released from prison in June 2000 after serving 11 years for organizing an independent union during the 1989 prodemocracy movement, was rearrested during the year and sentenced to 10 years. Li was charged with "incitement to subversion of state power," an apparent reference to his attempt to publicize prison conditions through a hunger strike. In another prominent case, Cao Maobing, an electrician from Jiangsu Province, was detained in a mental facility late in 2000, allegedly for his attempts to form an independent union at a Jiangsu silk factory. Cao was held for more than 200 days, and released in July.

Other labor activists, detained in previous years, were reported still in detention at year's end. Observers report that Shanghai labor dissident Wang Miaogen, detained in 1996, was still being held in a psychiatric hospital. The list of labor activists reported as still being held also included Zhang Shanguang, Li Jiaqing, labor lawyer Xu Jian, Miao Jinhong, Ni Xiafei, Li Keyou, Liao Shihua, Yue Tianxiang, Guo Xinmin, He Zhaohui, and Liu Jingsheng.

In September, the Government released Yang Qinzheng, a prodemocracy activist who most recently had been jailed for demanding the right to form independent trade unions in an open letter to Government leaders.

Neither the Constitution nor the law provides for the right to strike. However, the amended Trade Union Law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers have interpreted this provision to offer at least a theoretical legal basis for the right to strike. Nonetheless, strikes as an element of workers' negotiating tactics remained virtually unknown during the year.

As the pace of economic change has accelerated, changing relationships between workers and management, growing unemployment, wage and benefit arrearages, and uncertainties about the viability of a new social safety net system have produced a growing number of labor disputes and spontaneous protests.

The rising trend of labor disputes and protests continued during the year. With media coverage strictly controlled, accurate statistics, especially of labor protests, have been impossible to obtain. Nonetheless, observers estimated that the number of protests during the year was greater than in 2000. In July thousands of coal miners in Jilin province reportedly protested nonpayment of wages by blocking a railway line. In June thousands of petrochemical workers in Beijing protested peacefully over anticipated workforce downsizing. In a few cases, workers took managers hostage, but were persuaded to end these standoffs peacefully. In general, however, it appears that most protests were short and nonviolent. With some reported exceptions, authorities generally responded with minimal force and refrained from detaining large numbers of participants. The Government also sometimes provided funds to alleviate wage or benefit arrearages in response to demonstrations.

The Labor law provides for mediation, arbitration, and court resolution of labor disputes. Under these procedures, cases are to be dealt with first in the workplace, through a mediation committee, then, if unresolved, through a local arbitration committee outside the workplace. If no solution is reached at this level, the dispute may be submitted to the courts. According to Ministry of Labor and Social Security (MOLSS) statistics, arbitration committees nationwide handled over 135,000 labor disputes in 2000, an increase of 12.5 percent over the previous year.

Observers differ over the effectiveness of these dispute resolution procedures in protecting workers' rights and interests. Workers are reported to have little trust in the fairness of workplace mediation. They have little say in the choice of mediators. Moreover, unions that play a major mediation role are viewed as inclined to favor management. A 1999 ICFTU report contended that mediation efforts often are preferential to employers and largely are ineffective in advocating worker rights.

Workers appear to favor arbitration over workplace mediation. While workers have little say in the choice of arbitrators and may look with suspicion on the local government role in the process, the majority of arbitration decisions have favored workers. In the view of some observers, this fact helps explain the rapid rise in the number of arbitration cases.

The country is a member of the International Labor Organization (ILO) and has ratified core ILO conventions prohibiting child labor and discrimination in remuneration for male and female workers. The Government has not ratified other core conventions regarding the right of association, the right to collective bargaining, and the prohibition against compulsory labor. However, the Government has started to work closely with the ILO on programs in such areas as industrial relations, employment promotion, and occupational safety.

The International Confederation of Free Trade Unions (ICFTU) brought a complaint to the ILO against the Government in 1998, alleging the detention of trade unionists and violations of the right to organize. The Government denied the allegations in its official response to the ILO in March 1999. The ILO's governing body found the response inadequate and requested the Government to provide additional information. By the end of the year, the Government still had not replied to the request.

The ACFTU maintains active relations with international trade union organizations, and has established exchanges and cooperative relations with over 400 trade unions and international and regional trade organizations in over 130 countries and regions. In 2000, it received its first-ever visit from the head of the ICFTU. According to ACFTU officials, the ACFTU sent nearly 100 delegations overseas to meet and study with trade union counterparts during the year.

#### b. The Right to Organize and Bargain Collectively

The Labor Law permits collective bargaining for workers in all types of enterprises. Collective contracts are to be worked out between the labor union (or worker representatives in the absence of a union) and management, and to specify such matters as working conditions, wage scales, and hours of work. The law also permits workers and employers in all types of enterprises to sign individual contracts, which are to be drawn up in line with the terms of the collective contract.

According to official statistics for 2000, 107 million urban workers out of a total estimated urban workforce of approximately 200 million were covered by individual or collective labor contracts. Of these, approximately 64 million were covered by 240,000 collective contracts. However, the majority of these contracts, reached under the auspices of ACFTU unions with state-owned enterprises, were not the products of genuine collective bargaining. Rather, they represented decisions made by enterprise managers, in consultation with the enterprise's Communist Party secretary and ACFTU representatives, on general working conditions and the division of a government-mandated total wage package.

Changing labor-management relations as the country moves toward a market system are creating pressures for collective bargaining that involves more genuine negotiations and takes workers' interests into greater account. The amended Trade Union Law speaks more specifically than before about unions' responsibility to bargain collectively on behalf of workers' interests. However, the development of genuine collective bargaining remained more potential than real during the year.

In the private sector, where official unions are few and alternative union organizations are unavailable, workers face substantial obstacles to bargaining collectively with management.

Workplace-based worker congresses are common. These congresses are supposed to be the vehicle for worker input into enterprise policies and for guiding union activities. However, many are little more than rubber stamps for deals predetermined by enterprise management, the union, and the Communist Party representative.

The amended Trade Union Law strengthens the longstanding prohibitions against antiunion discrimination by providing specific legal remedies for such actions (see Section 6.a.). The Law also specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. These provisions were aimed primarily at the private sector, where resistance to unions has been common. Antiunion activity is virtually unknown in the state-owned sector.

Laws governing working conditions in Special Economic Zones (SEZ's) are not significantly different from

those in the rest of the country. Wages in the SEZ's and in the southeastern part of the country generally are higher for some categories of workers than in other parts of the country because high levels of investment have created a great demand for available labor. As in other areas of the country, officials have admitted that some foreign investors in the SEZ's are able to negotiate "sweetheart" deals with local partners that effectively bypass labor regulations. Some foreign businesses in the SEZ's have ACFTU-affiliated unions, and management reports positive relations with union representatives. One reason is that the ACFTU discourages strikes and work stoppages.

#### c. Prohibition on Forced or Compulsory Labor

The law prohibits forced and bonded labor, but forced labor is a serious problem in penal institutions. Prisoners regularly work in prisons and reeducation-through-labor institutions. In some cases, prisoners work in facilities directly connected with the penal institution and, in some cases, in nonprison enterprises with which the institution contracts to provide prisoner labor. The economic benefits that penal institutions may receive from prisoners' work and the inconsistent application of standards of official accountability increase the chance that some prison labor may be coercive or even abusive.

Credible reports from international human rights organizations and the foreign press indicate that some persons in pretrial detention also are required to work. Inmates of custody and repatriation centers, who also have been detained administratively without trial, reportedly are required to perform labor while in detention, often to repay the cost of their detention. Most such inmates perform agricultural labor (see Sections 1.d. and 1.e.).

In 1992 and 1994, the U.S. and Chinese Governments signed agreements that allow U.S. officials, with the approval of the Government, to visit prison production facilities to check specific allegations that prisoners in these facilities have produced goods exported to the United States. Some, although not all, of these allegations claim that these goods were produced under conditions of forced labor. Since these agreements were signed, the Government's cooperation with U.S. officials has been sporadic, at best. Between 1997 and year's end, the Government allowed U.S. officials to conduct only one visit to a prison labor facility. At year's end, eight prison visit requests, some dating back to 1992, still were pending. The Government has taken the position that the reeducation-through-labor facilities are not prisons and has denied access to them under the prison labor agreements.

Most anecdotal reports contend that working conditions in the penal system's light manufacturing factories are similar to those in other factories, but conditions on the system's farms and in mines can be very harsh. As in many workplaces in the country, safety is a low priority. There are no comprehensive statistics for work-related deaths and injuries among prisoners. However, in May 39 prisoner-miners were killed in a coal mine flood in Sichuan Province in May.

Trafficking in women and children and the kidnaping and sale of women and children for purposes of prostitution are serious problems (see Section 6.f.).

The Government prohibits forced and bonded labor by children, and enforcement on balance is deemed to be effective (see Section 6.d.).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits the employment of children, but the Government has not adopted a comprehensive policy to combat child labor. The Labor Law specifies that, with a few strictly-supervised exceptions, "no employing unit shall be allowed to recruit juveniles under the age of 16," 2 years older than the ILO standard age of 14 years for developing countries. The Labor Law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children's subsistence. Laborers between the ages of 16 and 18 are referred to as "juvenile workers" and are prohibited from engaging in certain forms of physical work, including labor in mines.

The Government maintains, and it is generally believed, that the country does not have a widespread child labor problem. In October the Government convened an interagency commission to study the question of child labor. This and the fact that the commission's formation and mandate were publicly announced represented an apparent shift from the Government's previous reluctance to publicly discuss child labor or to engage in officially acknowledged study of the phenomenon. The commission's findings were not available by year's end and it was unclear whether the Government would release them publicly.

Of the country's approximately 300 million children, the number who are working in contravention of the law or ILO conventions is unclear. Local experts on child labor estimate that the number is in the tens of thousands and that the overwhelming majority of these children work at the behest of their families, especially in impoverished rural areas, to supplement family income. The existence of a large adult migrant labor force, often willing to work long hours for low wages, reduces the attractiveness of child labor for employers. Apart from agricultural work, child workers in rural areas appear to work primarily for Township and Village Enterprises (TVE's). In urban areas, they may take up such jobs as car washers, garbage collectors, and street vendors. Some academics suspect that coal mines, which often operate far from urban centers and out of the purview of law enforcement officials, also occasionally employ children.

Some students work in light industrial production while in school, apparently to raise operating funds due to inadequate government funding. In March an explosion at an elementary school in Jiangxi Province killed 42 persons, most of them school children. Local residents credibly claimed that fireworks, assembled by pupils in

the school, caused the explosion. The Government initially denied this allegation but later implicitly acknowledged its accuracy. In the wake of the accident, the Jiangxi Provincial Education Department ordered all primary and secondary schools to conduct safety inspections, to limit outsiders' access to school facilities and to ensure that "production activities that might compromise the safety of teachers and students" were prohibited. In addition some local and provincial officials were dismissed.

Allegations of child labor in toy factories in Guangdong Province, made in 2000, remained unresolved. Provincial authorities declined to approve requests by foreign diplomats to speak directly with the individuals alleged to be involved. However, foreign companies that purchased these toys stated that their internal investigations did not bear out the allegations. In Shanghai, labor officials confirmed in August that a knitting company had employed underage workers. According to these officials, all of the young persons were returned to their hometowns and the company was fined from \$360 to \$600 (3,000 to 5,000 RMB) for each underage worker employed.

The Government has not ratified ILO convention 182 on the worst forms of child labor. The Government also has not made a public statement on the eradication of such labor or established a national program with that objective. Forced and bonded labor by children is prohibited, and enforcement is believed, on balance, to be effective (see Section 6.c.). There have been some reports of trafficking in children for the purposes of labor. However, this problem appears to be of considerably less magnitude than trafficking of children for purposes other than labor. Children trafficked to work usually are sent from poorer rural areas to relatively more affluent interior areas or large cities; traffickers reportedly often entice parents to relinquish their children with promises of the large remittances that their children will be able to send back to them. Many such children work in small factories. Rising school tuition fees and declining rural incomes discourage many rural parents from keeping their children, especially girls, in school beyond the fourth grade and make such offers more attractive. The children's remittances, along with bribes paid by traffickers to authorities, have made investigation into the scope of the problem difficult. In 2000 the media gave unprecedented coverage to illegal child labor cases, fueling concerns in nongovernment circles that child labor was a bigger problem than acknowledged by the Government.

Local government officials in Yunnan province and the All China Women's Federation have joined the Mekong Sub-Regional Project to Combat Trafficking in Children and Women, sponsored by the ILO and other U.N. agencies, to reenroll former child workers in school.

#### e. Acceptable Conditions of Work

The Labor Law provides for broad legal protections for workers on such matters as working hours, wages, and safety and health. The amended Trade Union Law strengthens the authority of unions to protect workers against violation of their contractually-agreed wages, and hours of work, and against unsafe working conditions, and violations of women's or minors' special rights. The Law on the Prevention and Treatment of Occupational Diseases, passed during the year, clarifies responsibilities for work-related illness and specifies specific penalties for violation of the law. The draft of a national Occupational Safety Law was completed, with officials anticipating passage by mid-2002. Although a more comprehensive structure of national laws setting standards for work conditions is being created, enforcement of these laws is a problem.

There is no national minimum wage. The Labor Law allows local governments to determine their own standards on minimum wages. In general, local governments set minimum wage levels higher than the levels they set for the local minimum standard income, but lower than the current wage level of the average worker. Minimum wages usually are sufficient to provide a decent standard of living for a worker and family. However, in the private sector, legislated norms often conflict with the desire of firms to minimize production costs. Widespread official corruption, and localities' concerns to attract and keep tax paying, job-producing enterprises that might otherwise locate elsewhere, may undercut enforcement of minimum wage and other protections for workers.

The national Labor Law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour rest period weekly. It also prohibits overtime work in excess of 3 hours per day or 36 hours per month. The Labor Law also sets forth a required percentage of additional pay for overtime work. However, these standards regularly are violated, especially in the private sector, and particularly in enterprises that can rely on a vast supply of low-skilled migrant labor. Media reports note that in many industries, including textile and garment manufacturing, compulsory overtime is common, often without legally mandated overtime pay. There also are media accounts of workers being prevented from leaving factory compounds without permission.

Occupational health and safety remain serious problems. The poor enforcement of occupational health and safety regulations continues to put workers' lives at risk. Working conditions in the private sector often are poor. Recognizing this, the Government during the year created a new State Administration for Work Safety (SAWS), which it joined with the State Administration for Coal Mine Safety Supervision (SACMSS), established in 2000. In setting up SAWS/SACMSS, the Government shifted the responsibility for work safety from the State Economic and Trade Commission, which also had business promotion responsibilities, to an agency solely dedicated to work safety. SAWS has 2,950 employees in 9 departments and 68 field offices around the country. At the local level and at the actual mine sites, however, national policies are enforced by local authorities, making consistent administration of directives problematic. The Government announced its intention to increase the number of workers covered under a new work-injury insurance system from the 42 million workers covered at the end of 2000 to 50 million at the end of the year.

Despite the Government's efforts, workplace health and safety did not improve significantly during the year, and there continued to be a high rate of industrial accidents. During the year, according to SAWS/SACMSS officials, approximately 12,000 workers were killed in industrial and mine accidents, comparable to the

previous year's figure of 11,681. Coal mining continued to be by far the most dangerous sector, with approximately 6,000 deaths. A SAWS/SACMSS official estimated that one-tenth of the world's work-related deaths occur in the country (this figure includes work-related traffic deaths, which brings the acknowledged work-related death total to approximately 80,000).

These official statistics almost certainly underestimate the real scope of workplace accidents. Informed observers contend that actual workplace deaths and injuries are significantly higher than official statistics report. Investigations into workplace accidents in Guangdong province and Shenzhen municipality in 2000 and other evidence of national trends support the contention of these observers. According to SAWS, there were 75 major mining accidents (those with 10 or more deaths) through October, and 82 accidents in 2000. Industrial accident statistics for Shenzhen and Guangdong, which have been reported by the local and foreign media, suggest that official national statistics may be understated. According to press reports in April 2000, an investigation by Workers' Daily found that 15,000 serious accidents occurred in Shenzhen's 9,582 factories in 1999. The investigation also found that on average 31 workers per day were injured in work related accidents that left them permanently disabled and that 1 worker died as a result of work related accident every 4 1/2 days. The China Machinery Daily reported in 1999 that there were over 20,000 cases of industrial injuries per year in Guangdong. Enterprise owners and managers may fail to report, or may even hide, accidents or health incidents. Local officials, whether because of corruption, protection of the local economy, or protection of their own jobs, often underreport incidents.

The high rate and seriousness of coal mining accidents has highlighted serious enforcement problems in that sector. The Government, in recent years, has shut tens of thousands of small coal mines, and during the year announced tougher mine inspection and closure standards. Nonetheless, some of the worst mining accidents occurred in mines that had reopened illegally after being officially closed.

Observers attribute the enforcement problem in the coal mining sector primarily to corruption and to powerful economic interests in sustaining what is often the main employer in the small localities where many of the most dangerous mines are located. The extraordinarily wide distribution of small coal mines (which account for approximately 20,000 of an estimated 25,000 mines) and the paucity of inspectors also hinder enforcement in the coal-mining sector. In localities and at the actual mine sites, national policies are enforced by local authorities, making consistent administration of directives problematic.

In other sectors, less than half of rural enterprises meet national dust and poison standards. Many factories that use harmful products, such as asbestos, not only fail to protect their workers against the ill effects of such products, but also do not inform them about the hazards.

In small but apparently growing numbers, workers and lawyers have begun to utilize lawsuits to pursue claims, especially work injury or illness claims, against employers. The most prominent set of cases has been brought by a lawyer based in Shenzhen Province, Zhou Litai, on behalf of workers injured on the job. However, in December Shenzhen authorities contended that Zhou was not authorized to practice law in that city, casting doubt on the immediate fate of his pending cases and practice.

In October 192 workers in Zhejiang Province won the country's first class-action suit against two engineering companies for failing to protect them adequately from silicon dust. Ten of the workers already have died from silicosis and the rest have contracted the disease. A court awarded \$27,400 (226,800 RMB) for each death and awards from \$4,700 (38,960 RMB) to \$47,050 (389,600 RMB) for those still ill.

#### f. Trafficking in Persons

The law prohibits trafficking in women and children; however, trafficking in persons and the abduction of women for trafficking are serious problems. The country is both a source and destination country for trafficking in persons. Most trafficking is internal for the purpose of providing lower-middle income farmers with brides or sons, but a minority of cases involve trafficking of women into forced prostitution in urban areas, and some reports suggest that some victims, especially children, are trafficked for the purpose of forced labor (see Section 6.d.).

Most trafficking in the country is internal. Some experts, including the UN Convention in the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee, have suggested that the serious imbalance in sex ratios in some regions (see Section 1.f.) has created a situation in which the demand for marriageable women cannot be met by local brides, thus fueling the demand for abducted women. Others have suggested that the problem is exacerbated by the tendency for many village women to leave rural areas to seek employment and by the tradition that requires that expensive betrothal gifts be given to women. The cost of betrothal gifts may exceed the price of a bride and thus makes purchasing a bride more attractive to poor rural families. Some families address the problem of a shortage of women by recruiting women in economically less advanced areas. Others seek help from criminal gangs, which either kidnap women or trick them by promising them jobs and an easier way of life and then transport them far from their home areas for delivery to buyers. Once in their new "family," these women are "married" and raped. Some accept their fate and join the new community; others struggle and are punished. According to reports, many of the kidnappings also occur in provinces where the male to female ratio is generally balanced. Ethnic minority women are disproportionately trafficked, although it is unclear whether this is due to the disproportionate poverty of their regions.

According to UNICEF reports, most domestic trafficking flows from the country's poorer areas in south or southwest to more developed regions in the north or northeast, or along the coast.

There were reports that women from Burma, Laos, North Korea, Vietnam, and Russia were trafficked into the

country either to work in the sex trade or to be forced to marry Chinese men. A small number of persons from Laos are trafficked to China. Vietnamese women are trafficked to China for sexual exploitation and arranged marriages. Burmese adults are trafficked to China. Trafficking of North Korean women into the country to become brides or to work in the sex industry reportedly is common in the northeastern part of the country. Many such women, unable to speak Chinese, are virtual prisoners. Some if not many of the Korean women are sold against their will to rural men—in both ethnic Korean and ethnic Han areas—who have difficulty finding wives in their home villages. According to press reports, North Korean brides were sold for the equivalent of between \$38 and \$150. Others end up working as prostitutes.

Citizens are trafficked from the country for sexual exploitation and indentured servitude in domestic service, sweatshops, restaurants, and other services. There are reports that citizens are trafficked to Belgium, Burma, Canada, Hungary, Italy, Japan (illegal immigrants held in debt bondage), Malaysia, the Netherlands (for sexual exploitation), North America, Singapore, Sri Lanka (for sexual exploitation), Taiwan, and the United Kingdom (for sexual exploitation).

A large number of citizens are trafficked through Hong Kong to the United States, Europe, and other regions.

Most trafficked Chinese women in Malaysia are from the coastal areas of Guangdong and Fujian provinces, and Shanghai municipality; they were trafficked by ethnic Chinese gangs. Most Chinese women trafficked to Australia reportedly come from Shanghai, Hong Kong, and Guangzhou (Guangdong province).

In February a Singapore court jailed for 30 months a man who trafficked 4 women from China to be waitresses on a Singapore-based cruise ship. The young women were forced to work as prostitutes on the ship after their arrival. Authorities in Italy reported in 2000 that an estimated 30,000 illegal Chinese immigrants work in sweatshop conditions outside of Florence, with many children working alongside their parents in the production of scarves, purses, and imitations of various brand name products.

Alien smuggling rings often have ties to organized crime, and are international in scope. Persons trafficked by alien smugglers may pay high prices for their passage to other countries, where they hope that their economic prospects may improve. There were reports that some pay between \$30,000 to \$50,000 (248,000 to 410,000 RMB) each for their passage. Many such persons quickly find themselves working in situations akin to indentured servitude. Upon arrival, many reportedly are forced to pay their debt to the traffickers by working in specified jobs for a set period of time. They often are forced to pay charges for living expenses out of their meager earnings, as well. The conditions under which these trafficked persons must live and work generally are poor, and they may be required to work long hours. The smuggling rings that trafficked them often restrict their movements, and their travel documents, which are often fraudulent, frequently are confiscated. Victims of trafficking face threats of being turned in to the authorities as illegal immigrants and threats of retaliation against their families at home if they protest the situation in which they find themselves.

Persons who are trafficked from the country and then repatriated may face fines for illegal immigration upon their return; after a second repatriation, persons may be sentenced to a term in a reeducation-through-labor camp. Alien smugglers are fined \$6,000 (50,000 RMB) and may be sentenced to up to 3 years in prison, although some have been sentenced to death.

Kidnaping and the buying and selling of children continue to exist, especially in poorer rural areas (see Section 5). There are no reliable estimates of the number of children trafficked. Domestically most trafficked children are sold to couples unable to have children; in particular, boys are trafficked to couples unable to have a son. Children also are trafficked for labor purposes. Children trafficked to work usually are sent from poorer interior areas to relatively richer areas. Traffickers reportedly often entice parents to relinquish their children with promises of large remittances that their children will be able to send back to them. In an effort to gain a degree of control over this problem, in mid-2000, the Government began to use DNA technology to confirm parentage, and the Chinese Ministry of Public Security reportedly has invested millions of dollars to establish a national DNA databank.

In April 2000 the Ministry of Public Security, along with the All China Women's Federation and other departments, launched a campaign against trafficking in women and children. The official media reported that 110,000 women and 13,000 children who had been trafficked were rescued during the campaign; some were trafficked for purposes of prostitution, and others for labor. According to press reports, at least eight persons convicted of trafficking women and children for prostitution were executed during the campaign. At least seven others were sentenced to long prison terms. The Government also established a national telephone hot line on abduction, as well as a national databank on victims and traffickers. Nongovernmental experts observed that the national campaign against trafficking focused primarily on the criminal aspects of the trafficking problem and less on the reintegration of victims into their communities, despite the involvement of the All China Women's Federation.

Despite Government efforts to crack down on trafficking in women and children, the present demand far outstrips the available supply, making trafficking a profitable enterprise for those willing to risk arrest and prosecution.

The Government continues to struggle with the pervasive problem of official corruption, as demonstrated by the prosecution and sentencing of roughly 18,000 officials on corruption-related charges in 2000. There have been foreign reports of complicity of local officials in the related problem of alien smuggling, as well as reports of the complicity of local officials in prostitution, although there are no specific ties to trafficking. Disregard of the law has also manifested itself at the village level, which falls below the lowest level of formal government, where village leaders have in some cases sought to prevent police from rescuing women who have been sold as brides to villagers.

Agencies involved in combating trafficking include the Ministry of Public Security, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council.

Many victims of domestic trafficking are given assistance and returned to their homes. The central Government has provided funds to provincial and local police to house victims and return them to their homes. Government-funded women's federation offices have provided counseling on legal rights for some victims, including the options for legal action against the traffickers. The All China Women's Federation assists victims in obtaining medical and psychological treatment.

Although the central Government and various provincial and local governments have attempted to crack down on the sex trade and thus on one type of trafficking, there have been numerous credible reports in the media of complicity in prostitution by local officials. Thus far, actions to stop this lucrative business largely have been ineffective.

UNICEF trains law enforcement personnel working with trafficking victims.

During the year the Government continued to conduct public education campaigns against trafficking as a preventive measure. The campaigns included speeches by national and provincial leaders, newspaper articles, and television programs. In addition, the Government-funded AWC and its subsidiary women's federations at the provincial level conducted educational activities, including street counseling and cultural contests. In some cities, signs in bus and train stations warn women of potential dangers; police in the stations have been trained to look for women who may be traveling against their will. The Government also established a national telephone hot line on abduction, as well as a national databank on victims and traffickers. Nongovernmental experts observed that the national campaign against trafficking focused primarily on the criminal aspects of the trafficking problem and less on the reintegration of victims into their communities, despite the involvement of the All-China Women's Federation.

#### Tibet

(The United States recognizes the Tibet Autonomous Region (TAR)—hereinafter referred to as "Tibet"—to be part of the People's Republic of China. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage and protection of its people's fundamental human rights continue to be of concern.)

#### Respect for the Integrity of the Person

The Chinese Government strictly controls access to and information about Tibet, making it difficult to determine accurately the scope of human rights abuses. However, according to credible reports, Chinese government authorities continued to commit serious human rights abuses in Tibet, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views. The tight controls on religious expression that were imposed in 2000 were enforced less strictly during the year, but the overall level of repression of religious freedom in Tibet remained high and the Government's record of respect for religious freedom remained poor. Activities viewed as vehicles for political dissent, including celebration of some religious festivals, were not tolerated and were quickly and forcibly suppressed. Individuals accused of political activism faced ongoing and serious harassment and abuse during the year. There were reports of the death of political prisoners as well as the imprisonment and abuse or torture of nuns and monks accused of political activism. Security was intensified during sensitive anniversaries and festival days, and particularly during ceremonies surrounding the 50th anniversary of the "Peaceful Liberation of Tibet" in the summer. There were reports of small-scale political protests by ethnic Tibetans in a number of ethnic Tibetan areas, including outside the TAR.

During the year, there were accounts of prisoner deaths from abuse, either while in detention or soon after release. According to the Tibet Information Network (TIN), the prisoner death rate among Tibetans is 1 in 46; deaths of at least 41 Tibetan political prisoners since 1989 can be attributed to severe abuse under detention; at least 20 of these prisoners had been in Lhasa's Drapchi prison. Ngawang Lochoe (also known as Dondrub Drolma), a 28-year-old nun at Sandrup Dolma Lhakang temple, reportedly died in February after serving 9 years of a 10-year sentence for participating in "counterrevolutionary propaganda and incitement". She died the same day that she was moved to a hospital from Drapchi Prison, reportedly from respiratory and heart failure.

According to recent information, a monk from Lhasa's Jokhang Temple, Penpa, died in late 1999 or early 2000 soon after being released on medical parole from the Trisam reeducation-through-labor center. He had been detained for displaying a Tibetan flag in front of the Jokhang. TIN reported that monk Konchog Dawa died in January, while under detention at the Shigatse Prefectural Detention Center. He was detained after illegally entering China from Nepal. Suicides of Tibetan prisoners have been reported.

There are many credible reports that prisoners are tortured and mistreated. Authorities use electric shocks, suspension in painful positions, and other forms of torture or abuse. TIN reported severe beatings of several nuns serving long prison sentences, including Ngawang Choezom and Phuntsog Nyidrol, imprisoned in 1989 for singing proindependence songs. Government officials stated that because Phuntsog Nyidrol has shown repentance, her sentence has been reduced by one year. She is scheduled to be released in 2005. Nun Ngawang Sangdrol, who was imprisoned at age 13, released 9 months later and resentenced at age 15, also reportedly was beaten severely on multiple occasions and held in solitary confinement for an extended period. Her prison sentence was extended for a third time in late 1998 to a total of 21 years for her involvement in

prison demonstrations, most recently in May 1998. Ngawang Sangdrol's health continues to be poor, despite government officials' assertions that she is well. Prisoners who resisted the political reeducation imposed by prison authorities, particularly demands to denounce the Dalai Lama and accept Gyaltzen Norbu, the boy recognized by the Government as the Panchen Lama, also reportedly were beaten.

In February 1999, TIN and the foreign press reported increased use of military-style drills and exercises (often in either very hot or very cold weather) at Lhasa's Drapchi prison. Prison officials reportedly force prisoners to run barefoot, to stand motionless for extended periods, and to march for extended periods while shouting patriotic slogans. Prisoners also were treated harshly in other prisons. According to credible reports, Chadrel Rinpoche, who was accused of betraying state secrets while helping the Dalai Lama choose the 11th reincarnation of the Panchen Lama, has been held in a Sichuan prison where he is separated from other prisoners, denied all outside contacts, and restricted to his cell. Although he was thought to be scheduled for release in May (6 years from the time of his initial detention), the Government told foreign officials in February that he would not be released until January 2002. The Government confirmed that Chadrel Rinpoche was being held in a Sichuan prison and that he was in "good health."

Ngawang Choephel, a Tibetan ethnomusicologist sentenced in 1996 to 18 years in prison on charges of espionage, was incarcerated in a facility near Chengdu in Sichuan Province throughout the year. According to government officials, he suffered from a variety of ailments, including digestive, urinary, kidney, and liver problems.

At least three staff members of the Gyatso Children's Home, a Lhasa orphanage that was closed by officials in September 1999, remained in detention, reportedly charged with "endangering national security." No further information was available on the details of these cases.

Legal safeguards for ethnic Tibetans detained or imprisoned are the same as those in the rest of China and are inadequate in design and implementation. A majority of judges are ethnic Tibetans, but most have little or no legal training. Authorities are working to address this problem through increased legal education opportunities. Trials are brief and are closed if issues of state security are involved. According to a 2000 TIN report, the length of the average sentence of Tibetan political prisoners is increasing. Since 1987 the average sentence imposed on all Tibetan political prisoners was 4 years, 9 months. However, the average sentence of all Tibetan political prisoners still in detention in 2000 was 8 years, 8 months. Authorities report that courts handle approximately 20 cases involving crimes against state security each year, for which maximum prison sentences are 15 years for each count, not to exceed 20 years in total. Such cases mainly concern actions in support of Tibetan independence, and such activities do not have to be violent to be illegal. Reportedly 72 percent of female detainees are nuns, and approximately 74 percent of male prisoners are monks.

The lack of independent access to prisoners or to prisons makes it difficult to assess the extent and severity of abuses and the number of Tibetan prisoners. According to TIN, approximately 200 Tibetan political prisoners are detained in China, a majority of whom are monks and nuns imprisoned in the TAR. Officials from the Justice and Prison Administration Bureaus told a foreign delegation in April 2000 that of the 2,200 prisoners currently serving sentences in the TAR (76 percent of whom were ethnic Tibetan, and 20 percent ethnic Han), 110 were incarcerated for "endangering state security," including approximately 30 nuns and 70 monks, over 90 percent of whom were incarcerated for "endangering state security."

Promotion of family planning remains an important goal for the authorities in Tibet, but family planning policies permit most ethnic Tibetans, as well as other minority groups resident in the TAR, to have more children than Han Chinese (who are subject to the same limits as citizens in other areas of the country). Urban Tibetans are permitted to have two children, while those in rural areas often have three or more. In practice Tibetans working for the Government, especially Communist Party members, are pressured to limit themselves to one child.

The Government tightly controls foreign travel to Tibet, requiring individual travelers to secure permits for entry to the TAR. Movement within the TAR also is controlled tightly. Official visits are supervised closely and afford delegation members very few opportunities to meet local persons not previously approved by the local authorities. Foreigners, including international NGO personnel and foreign residents, were subject to increased scrutiny and travel restrictions during several periods over the year. The Government also placed restrictions on the movement of ethnic Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were numerous reports of arbitrary detention of persons, particularly monks, returning to Tibet from Nepal. In many cases, detentions lasted for several months, although in most cases no charges were formally brought.

Some foreign NGO's reported restrictions on their activities and, in some cases, threats of expulsion. One foreign NGO, which was shut down in 2000, has not yet been allowed to reopen.

Forced labor reportedly is used in some prisons, detention centers, reeducation-through-labor facilities, and at worksites where prisoners are used as workers. Prisoners at many sites receive some remuneration, and can earn sentence reductions by meeting or exceeding work quotas.

Chinese law mandates that prisoners can be required to work up to 12 hours per day, with one rest day every 2 weeks (Article 53 of the Statute of Reform Through Labor). However, some refugees report that work requirements are more onerous than those set forth in the law. At Drapchi prison male prisoners reportedly work in vegetable fields and in factories at the prison. Female prisoners clean toilets and also are involved in tailoring, cleaning, or spinning and sorting wool to be used in the manufacture of carpets and sweaters. According to Human Rights Watch, some Tibetan prisoners are required to work beyond their terms of imprisonment. Some prisoners in pretrial detention also are forced to work.

## Freedom of Religion

The Government maintains tight controls on religious practices and places of worship. While it allows many types of religious activity in Tibet, the Government does not tolerate religious manifestations that it views as advocating Tibetan independence or any expression of separatism, which it describes as "splittism." The Government remains suspicious of Tibetan Buddhism in general because of its links to the Dalai Lama, and this suspicion also applies to Tibetan Buddhist religious adherents who do not explicitly demonstrate their loyalty to the State. Repression of religious freedom in Tibet reached severe levels during the summer of 2000, with tight restrictions imposed on lay practices. However, these restrictions were not enforced as strictly by the end of 2000. The overall level of religious repression in Tibet remained high, and the Government's record of respect for religious freedom remained poor during the year. Activities viewed as vehicles for political dissent, including celebration of some religious festivals, were not tolerated and were quickly and forcibly suppressed. The Government harshly criticized the Dalai Lama's political activities and leadership of a "government-in-exile." The official press continued to criticize vehemently the "Dalai clique" and repeatedly described him as a separatist who was determined to split China. Both central government and local officials often insist that dialog with the Dalai Lama is impossible and claim that his actions belie his repeated public assurances that he does not advocate independence for Tibet. Nonetheless, the Government asserts that it is willing to hold talks with the Dalai Lama as long as he ceases his activities to divide the country, recognizes that Tibet is an inseparable part of China, and that Taiwan is a province of China. The ban on the public display of photographs of the Dalai Lama continued, and such pictures were not readily available except illegally in many parts of the TAR.

Following the conclusion of the "patriotic education" campaign begun in the mid-1990s, the Government declared "success" in increasing its control over the Tibetan Buddhist establishment. Political education activities in monasteries continued at many sites throughout the region, though at a lower level of intensity.

Official "work teams" continued to periodically visit monasteries to conduct required sessions on such topics as relations between Tibetans and Han Chinese, Tibet's historical status as a part of China, and the role of the Dalai Lama in attempting to "split" the country. According to regulations posted at the entrances of many monasteries, monks are required to be "patriotic," and authorities require monks to: Sign a declaration agreeing to reject independence for Tibet; reject Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the 11th reincarnation of the Panchen Lama; reject and denounce the Dalai Lama; recognize the unity of China and Tibet; and not listen to the Voice of America. Monks who refused these terms risked expulsion from their monasteries; others were forced to leave their monasteries after failing to pass exams on these topics or being found "politically unqualified;" others leave "voluntarily" rather than denounce the Dalai Lama. Many monks and nuns who attempt to protest peacefully or refuse to abide by rules imposed by government authorities in Buddhist monasteries are subject to detention.

Ongoing political education requirements are resented deeply by monks, nuns, and lay Buddhists. Although there has been some reduction of patriotic education activities throughout the region as the objectives of increasing control over the monasteries and reducing the numbers of monks and nuns were achieved, many monasteries and nunneries were disrupted severely, and monks and nuns have fled to India to escape the campaigns. Historically, up to 3,000 Tibetans enter Nepal each year to escape conditions in Tibet, according to the U.N. High Commissioner for Refugees; many of these refugees claim that they left because of the "patriotic education" activities.

Chinese authorities closely associate Buddhist monasteries with proindependence activism in Tibet. The Government has moved to curb the proliferation of monasteries, which it contends are a drain on local resources and a conduit for political infiltration by the Tibetan exile community.

Chinese officials state that Tibet has more than 46,300 Buddhist monks and nuns and some 1,787 monasteries, temples, and religious sites. These numbers apply only to the TAR; thousands of monks and nuns live in other ethnic Tibetan areas of China, including parts of Sichuan, Yunnan, Gansu, and Qinghai Provinces. Officials have used these same figures for several years, although there are credible reports that the numbers of monks and nuns have dropped significantly at many sites in the TAR, especially since the beginning of the "patriotic education" campaign in the mid-1990s. According to a TIN report, the number of monks and nuns in some monasteries and nunneries fell in 2000, as part of an effort to restrict religious observance. The Government states that there are no limits on the number of monks in major monasteries, and that each monastery's democratic management committee decides on its own how many monks the monastery can support. However, these committees are government controlled; in practice the Government generally imposes strict limits on the number of monks in major monasteries. Some monasteries reportedly have been required to decrease the number of monks associated with them. In June Chinese authorities ordered thousands of monks and nuns to leave the Serthar Tibetan Buddhist Institute located in the Ganze Tibetan Autonomous Prefecture in Sichuan Province (also known as the Larung Gar monastic encampment). The Government maintained that the facility, which housed the largest concentration of monks and nuns in the country, was reduced in size for sanitation and hygiene reasons. Foreign observers believed that the authorities moved against the Institute because of its size and the influence of its charismatic founder, Khenpo Jigme Phuntsok. At year's end, Khenpo Jigme Phuntsok had not returned to the Institute.

The Government has the right to disapprove any individual's application to take up religious orders, although it does not uniformly exercise this right. Although by regulation monks are prohibited from joining a monastery prior to the age of 18, many younger boys continue the tradition of entering monastic life. However, in some areas many young novices, who traditionally served as attendants to older monks while receiving a basic monastic education and awaiting formal ordination, have been expelled from monasteries in recent years for being underage. The fact that these novices were not regular members of the monasteries has allowed authorities to deny that there has been a significant decline in the numbers of monks.

Most Tibetans practice Buddhism to some degree. This holds true for many ethnic Tibetan government officials and Communist Party members. Some 1,000 religious figures hold positions in local people's congresses and committees of the Chinese People's Political Consultative Conference. The Government continues to insist that party members adhere to the Party's code of atheism. A 3-year drive to promote atheism and science among government workers, first begun in January 1999, was extended to more government offices and to schools. The drive was launched to promote economic progress, strengthen the struggle against separatism, and stem "the Dalai clique's reactionary infiltration," according to official press reports. Authorities threatened to terminate the employment of government employees whose children are studying in India (where the Dalai Lama's government-in-exile is located) if they did not bring the children back to Tibet.

The tight restrictions on lay religious activity imposed in 2000 no longer were strictly enforced, although other restrictions on religious expression remained in place. Some reports indicate that government workers now feel less pressure to restrict their personal expressions of religious belief. However, while Tibetans burned incense and celebrated Sagadawa by making the lingkor (a pilgrimage circuit around the religious sites of Lhasa), restrictions and bans on celebrating other important religious holidays continued. Restrictions were imposed by the authorities to prevent celebration of the Dalai Lama's birthday in July. Reports indicate that Tibetans were forbidden to hold traditional incense-burning ceremonies on that day, and that most places of worship were closed, although there were reports of many Tibetans celebrating early or privately.

The Government continues to oversee the daily operations of major religious sites. The Government, which does not contribute to the regular operating funds of monasteries, retains management control of the monasteries through democratic management committees (DMC) and local religious affairs bureaus. In recent years, DMCs at several large monasteries have begun to collect all funds generated by sales of entrance tickets or donated by pilgrims, which previously were disbursed to monks engaged in full-time religious study for advanced religious degrees. Such "scholar monks" now must engage in income-generating activities at least part-time. Several experts are concerned that fewer monks will be qualified to serve as teachers in the future as a result.

During 1999 the TAR Religious Affairs Bureau confirmed that its officers are members of the Communist Party and that members are required to be atheists; a large percentage of the members of the religious affairs bureaus are non-Tibetans. Regulations restrict leadership of DMCs to "patriotic and devoted" monks and nuns, and they specify that the Government must approve all members of the committees. At some monasteries, government officials also sit on the committees.

Following the December 1999 flight to India of the Karmapa, leader of Tibetan Buddhism's Karma Kargyu school and one of the most influential religious figures in Tibetan Buddhism, authorities restricted access to Tsurphu monastery, the seat of the Karmapa, and reportedly increased "patriotic education" activities there. In several public statements, the Karmapa asserted that he left because of controls on his movements and the refusal either to allow him to go to India to be trained by his spiritual mentors or to allow his mentors to come to him. Soon after his flight, TIN reported that at least two Tsurphu monks were arrested and that the Karmapa's parents were placed under surveillance. Government officials denied that there were any arrests or that the Karmapa's parents have faced restrictions of any kind. The atmosphere at Tsurphu reportedly remains tense, with a permanent police presence and intensified restrictions on monks that appear to be aimed at discouraging them from following their spiritual teacher into exile. In December 2000, foreign officials were allowed to visit the Tsurphu monastery, where approximately 325 monks were said to be in residence. There were few other visitors at the time, even though December usually is a popular time for pilgrims to visit. According to reports, no new monks have been permitted to enter Tsurphu monastery since the Karmapa left, but religious activity at the monastery has continued.

The departure of the Karmapa added to tensions and increased the authorities' efforts to exert control over the process for finding and educating reincarnated lamas. The Dalai Lama, who by tradition approves the selection of important religious figures, continues to refuse to recognize the selection of Sonam Phuntsog as the seventh reincarnation of the Reting Rinpoche; many of the monks at Reting Monastery reportedly did not accept the child as the Reting Rinpoche, and eight monks were arrested in 2000 for protesting his selection. He now lives with his family under heavy guard in his residence near the monastery. Authorities tightly controlled access to the area. Another young reincarnate lama, 8 year-old Pawo Rinpoche, also lives under house arrest at Nenang monastery and reportedly has been denied access to his religious tutors. The Pawo Rinpoche was recognized by the Karmapa and is one of the senior Karma Kargyu lamas remaining in Tibet. Foreign officials have repeatedly been denied permission to visit Nenang Monastery.

The Panchen Lama is one of Tibetan Buddhism's most prominent figures, after the Dalai Lama. The Government continued to insist that Gyaltsen Norbu, the boy it recognizes and enthroned in 1995, is the Panchen Lama's 11th reincarnation. The authorities tightly control all aspects of his life, and he has appeared publicly in Beijing and the TAR only on rare occasions. His public appearances were marked by a heavy security presence. The authorities strictly limit access to the boy. Meanwhile, repeated requests for access to Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the 11th Panchen Lama, to confirm his well-being and whereabouts have been denied. He first disappeared in 1995, when he was 6 years old. Government officials have stated that the boy is being held for his own protection, and that he lives in Tibet and attends classes as a "normal schoolboy." The authorities also maintain that both boys are being well cared for and are receiving a good education. The vast majority of Tibetan Buddhists continue to recognize Gendun Choekyi Nyima as the Panchen Lama. Tibetan monks have claimed that they were forced to sign statements pledging allegiance to the boy the Government selected as the reincarnation of the Panchen Lama. The Communist Party also urged its members to support the "official" Panchen Lama, and government authorities at both the regional and city levels had pictures of the boy printed for use in public and private religious displays; however, very few photographs of him are on display. Instead, more prominently displayed are pictures of the 10th Panchen Lama, which some foreign observers interpret as a rejection of Gyaltsen Norbu,

the boy recognized by the Government to be the Panchen Lama. The Government banned pictures of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama to be the 11th reincarnation of the Panchen Lama.

The Government has stated that since the end of the Cultural Revolution, it has contributed sums in excess of \$40 million (300 to 400 million RMB) toward the restoration of a number of important Buddhist sites that were destroyed before and during that period. Government funding of restoration efforts ostensibly was done to support the practice of religion, but also was done in part to promote the development of tourism in Tibet. Most recent restoration efforts were funded privately, although several large religious sites also were receiving government support for reconstruction projects during the year.

#### Economic Development and Protection of Cultural Heritage

Tibetans, as one of China's 55 minority ethnic groups, receive preferential treatment in marriage and family planning policies, and, to a lesser extent, in university admissions and government employment. According to official government statistics, 74 percent of all government employees in Tibet are ethnic Tibetans. Nonetheless, many positions of political authority are held by ethnic Han Chinese, and most key decisions in Tibet are made by ethnic Han. Although government regulations stipulate that government and legal documents are to be in Tibetan, in practice, written communications by officials and government documents very frequently only are in Chinese.

The Central Government and other provinces of China heavily subsidize the Tibetan economy, which, according to official statistics, has grown by an average annual rate of over 10 percent for the last decade. Over 90 percent of Tibet's budget income comes from outside sources. Tibet also benefits from a wide variety of favorable economic and tax policies. Government development policies have helped raise the material living standards of most ethnic Tibetans, particularly by providing better transportation and communications facilities. However, in recent years, freer movement of persons throughout China, government-sponsored development, and the prospect of economic opportunity in Tibet have led to a substantial increase in the non-Tibetan population (including China's Muslim Hui minority as well as Han Chinese) in Lhasa and other urban areas as migrant workers from China's large transient population seek to take advantage of these new economic opportunities. Most of these migrants profess to be temporary residents, but small businesses run by ethnic Han and Hui citizens (mostly restaurants and retail shops) predominate in almost all Tibetan cities.

The Dalai Lama, Tibetan experts, and others have expressed concern that development projects and other Central Government policies initiated in 1994 and reemphasized and expanded at the 4th Tibet Work Forum in June will continue to promote a considerable influx of non-Tibetan Chinese into Tibet. They fear that Tibet's traditional culture and ethnic Tibetan demographic dominance will be overwhelmed by such migration.

Tibetans are reportedly discriminated against in employment in some urban occupations; ethnic Han are hired preferentially for many jobs and receive greater pay for the same work. Ethnic Tibetans reportedly are fired discriminatorily from some jobs. In addition many jobs require proficiency in Chinese (which limits opportunities for many ethnic Tibetans). Connections also reportedly work to the advantage of the ethnic Han (who tend to be in the higher ranking positions), and it is more difficult for Tibetans to get permits and loans to open businesses than it is for ethnic Han. Other fundamental worker rights recognized by the International Labor Organization, including the right to organize and the right to bargain collectively that are broadly denied in the rest of China are denied in Tibet.

Rapid economic growth, the expanding tourism industry, and the introduction of more modern cultural influences also have disrupted traditional living patterns and customs and threatened traditional Tibetan culture. In Lhasa the Chinese cultural presence is obvious and widespread. Buildings are of Chinese architectural style; the Chinese language is spoken widely, and Chinese characters are used in most commercial and official communications. Many observers estimate that more than half of Lhasa's population is Han Chinese; elsewhere in the TAR, the Han percentage of the population is significantly lower. In rural areas, the Han presence often is negligible. Chinese officials assert that 95 percent of Tibet's officially registered population is Tibetan, with Han and other ethnic groups making up the remaining 5 percent. Officials report that these figures do not include the large number of "temporary" Han residents, including military and paramilitary troops and their dependents, many of whom have lived in Tibet for years.

There are reports that malnutrition among Tibetan children is widespread in many areas of the TAR. This is particularly true of rural areas and has resulted in high rates of stunted growth among children. Nutritional deficiency ailments, such as goiter (from a lack of iodine), night blindness (from a lack of Vitamin A), and rickets are said to be relatively common among children in some areas. Special programs—sponsored by both government and NGO groups—are in place in some areas to address these problems.

According to official government statistics, 42 percent of persons in the TAR are illiterate or semiliterate. Illiteracy and semiliteracy rates are as high as 90 percent in some areas. Approximately 83 percent of eligible children attend primary school, according to official statistics, but most pupils end their formal education after graduating from village schools. Chinese officials over the past few years have downgraded the use of Tibetan in education and in 1997 announced that they would begin teaching Chinese to Tibetan children starting in the first grade. The Government stated that this step was taken in order to make Tibetan children more competitive with their Han counterparts, and to provide more educational and employment opportunities in the long run. Primary schools at the village level follow a Tibetan curriculum, but these schools usually have only two or three grades.

According to local education officials, Tibetan is the main language of instruction in 80 percent of middle schools, especially in more remote areas, although there are special classes offering instruction in Chinese. NGO's maintain that this figure is inaccurately high. Most, but not all, of the students in the Chinese classes

are ethnic Han. Most of those who attend regional high schools continue to receive some of their education in Tibetan, but knowledge of Chinese is essential as most classes are in Chinese. Tibetan curriculum high schools exist in a few areas. The Government continues to allocate funds to enable Tibetan secondary students to study in schools elsewhere in China. According to government figures, there are 13,000 Tibetan students currently studying in some 100 schools in different parts of China. Knowledge of Chinese usually is necessary to receive a higher education, although some minority colleges allow for study of some subjects in Tibetan.

Tibet University was established to train Tibetan teachers for the local educational system. Ethnic Tibetans resent the fact that Han representation in the student body and faculty far exceeds their proportion of the total TAR population. Although Tibetans are given admission preference, Han Chinese students frequently gain admission because they score higher on admission exams due to stronger Chinese-language skills and educational backgrounds. Authorities reportedly require professors, particularly those from Tibet University's Tibetan Language Department, which is viewed as a potential source of dissent, to attend political education sessions and limit course studies and materials in an effort to prevent "separatist" political and religious activity on campus. Many ancient or religious texts are banned from the curriculum for political reasons.

Prostitution is a growing problem in Tibet, as it is elsewhere in the country, according to experts working in the region. Hundreds of brothels operate openly in Lhasa. Up to 10,000 commercial sex workers may be employed in Lhasa alone. Much of the prostitution occurs at sites owned by the Party, the Government, or the military. Most prostitutes in Tibet are ethnic Han women, mainly from Sichuan. However, a substantial number of ethnic Tibetans, mainly young girls from rural or nomadic areas, also work as prostitutes. The incidence of HIV/AIDS among prostitutes in Tibet is unknown but is believed to be relatively high.

During the year, there were reports that TAR authorities were pressuring employers of ethnic Tibetans who were raised or educated in India to dismiss such employees, especially in the tourism industry. Lhasa tour agencies have been forced to dismiss ethnic Tibetan tour guides educated in India and Nepal. These guides were required to seek employment with the Government's Tibet Tourism Bureau (TTB). Prior to gaining employment with the TTB, applicants must pass an examination on tourism and politics. Many, if not most, Tibetan tour guides educated abroad reportedly fail this exam. Tourist hotels and restaurants have been "encouraged" to dismiss ethnic Tibetan employees educated abroad, as well.

Tibet Autonomous Regional Television, a Tibetan-language satellite television channel, broadcasts in Tibetan for 12 hours each day. There also are two bilingual channels on which Tibetan language programs make up 15 percent of the total. The signals of the Tibetan language services of Voice of America (VOA) and Radio Free Asia (RFA) as well as of the Oslo-based Voice of Tibet suffer from the same jamming of their frequencies by Chinese authorities as the signals of their Chinese language services. However, Tibetans are able to listen to the broadcasts at least some of the time. RFA states that Tibetans are subject to intimidation and fines for listening to foreign language broadcasts, including RFA.

The Internet has been open to the public since April 1999. At year's end, Lhasa had several Internet cafes, and estimates put the number of Internet users in Tibet at several thousand.

China's economic development policies, supported in Tibet by central government subsidies, are modernizing parts of Tibetan society and changing traditional Tibetan ways of life. Although the Government has made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continue to limit the fundamental freedoms of ethnic Tibetans and risk undermining Tibet's unique cultural, religious, and linguistic heritage.

### **Hong Kong**

Hong Kong reverted from British to Chinese sovereignty on July 1, 1997 (the handover). As a Special Administrative Region (SAR) of the People's Republic of China (PRC), Hong Kong enjoys a high degree of autonomy except in defense and foreign affairs and remains a free society with legally protected rights. The Basic Law, approved in 1990 by the PRC's National People's Congress (NPC), provides for fundamental rights and serves as a "mini-constitution." A Chief Executive, selected by a 400-person selection committee that was chosen by a PRC-appointed preparatory committee, exercises executive power. The legislature (known as the Legislative Council) is composed of directly and indirectly elected members. In September 2000, the second Legislative Council was elected for a 4-year term. Twenty-four seats were elected on a geographic basis through universal suffrage, 30 seats through functional (occupational) constituencies, and 6 seats through indirect election. Human rights groups and democracy advocates complained that the elections for functional constituency and election committee seats are undemocratic since only 180,000 voters were eligible to elect the 30 legislators elected by functional constituencies and the 6 legislators elected indirectly, while over 3 million persons were eligible to vote for 24 legislators elected by geographical constituencies. However, no parties boycotted the elections. Prodemocracy candidates won 17 of the 24 seats elected on a geographic basis (including one in a December 2000 by-election) and 22 seats overall.

The power of the legislature is curtailed substantially by voting procedures that require separate majorities among both geographically and functionally elected legislators for bills introduced by individual legislators, and by Basic Law prohibitions against the legislature's initiating legislation affecting public expenditures, political structure, or government operations. In addition the Basic Law stipulates that legislators only may initiate legislation affecting government policy with the prior approval of the Chief Executive. "Government policy" in practice is defined very broadly. By law and tradition, the judiciary is independent and the Basic Law vests Hong Kong's highest court with the power of final adjudication; however, under the Basic Law, the Standing Committee of the NPC has the power of final interpretation of the Basic Law. The Government's controversial

1999 request to the Chinese Government to seek such an interpretation resulted in an NPC Standing Committee interpretation which effectively overturned a ruling by the Court of Final Appeal, Hong Kong's highest court, raising questions about the potential future independence and ultimate authority of Hong Kong's judiciary.

A well-organized police force under the firm control of local civilian authorities maintains public order. Individual members of the police sometimes used excessive force. The 4,000 Chinese troops sent to Hong Kong in 1997 to replace the British military garrison have maintained a low profile and have not performed police functions.

Hong Kong is a major international trade and finance center. It is the principal gateway for trade and investment with China. A thriving free market economy operates with limited government interference. The economy, which provides residents a high standard of living, declined in the latter half of the year in connection with the global economic slow-down. Per capita gross domestic product (GDP) is \$24,375 (HK\$190,124); the population is approximately 6.8 million.

The Government generally respected the human rights of residents, and the law and judiciary generally provide effective means of dealing with individual instances of abuse. Human rights problems that existed both before and after the handover include: limitations on residents' ability to change their government and limitations on the power of the legislature to affect government policies; occasional police use of excessive force; some degree of media self-censorship; violence and discrimination against women; discrimination against the disabled and ethnic minorities; intimidation of foreign domestic workers; and trafficking in persons for the purposes of forced labor and prostitution. Despite the ban on the Falun Gong in mainland China, the Falun Gong remained legally registered and generally free to continue its activities in Hong Kong.

## RESPECT FOR HUMAN RIGHTS

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

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of arbitrary or unlawful deprivations of life committed by the Government or its agents.

There was one reported death of a detainee during the year, and one reported death of an escaped detainee; both persons appear to have committed suicide. In January a prisoner was found hanging in his cell; his death was ruled to be suicide. In July a woman who had escaped police custody reportedly jumped to her death from her home; the incident was still under investigation at year's end. In 2000 there were four deaths in custody; three were ruled to be suicide, and one was found to be an accidental death.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law forbids torture and other abuse by the police; however, there were reports that police at times used excessive force against persons in custody. The law stipulates punishment for those who violate these prohibitions, and disciplinary action can range from warnings to dismissal. Criminal proceedings may be undertaken independently of the disciplinary process. Allegations of excessive use of force are investigated by the Complaints Against Police Office (CAPO), whose work is monitored and reviewed by the Independent Police Complaints Council (IPCC), a body composed of public members appointed by the Chief Executive.

Although excessive use of force by police is not widespread, there are occasional complaints of force being used during interrogations to coerce information or confessions, and in a few instances in the past those complaints were partially substantiated, although there were no such complaints during the year. In the first 10 months of the year, CAPO received 617 complaints of assault by the police. Of the 205 cases in which investigations were completed and endorsed by the IPCC, 154 were withdrawn, 29 were deemed "not pursuable," 1 was judged to be "no fault," 9 were judged to be false, and 12 were judged "unsubstantiated." None was substantiated. The remainder (412 cases) was pending investigation at year's end. Of the 1039 assault allegations received in 2000, 3 were partially substantiated and none was substantiated as reported; 66 still were pending. The U.N. Human Rights Committee and local human rights groups have called for a more independent and efficient monitoring body with statutory powers, noting long delays in hearing some allegations, the large difference between the number of complaints received and the few that are substantiated, the light punishment that police officers received when complaints were found to be substantiated, and the unwillingness of some witnesses to pursue complaints for fear of retribution. In May 2000, the U.N. Committee against Torture expressed concern over the "lawful authority" defense of, and the lack of prosecutions under, the Crimes (Torture) Ordinance. In 1999 the U.N. Human Rights Committee expressed concern that police responsibility for investigation of police misconduct undermines the credibility of IPCC investigations and called on the Government to reconsider its approach.

Six police officers accused during the year of assaulting a television cameraman during interrogation were acquitted in District Court in August, but faced an internal police disciplinary inquiry. Also in August, an internal police review concluded that police operational decisions and actions in a June 2000 protest against the Government's right of abode (see Section 1.e.) policies were in accordance with the law. The police had been accused of using excessive force when they used pepper spray and hit demonstrators when removing them.

from the entrance to the main government office building. Two police officers earlier had received verbal warnings for excessive use of pepper spray.

Prison conditions generally meet international standards. Men and women are housed separately, juveniles are housed separately from adults, and pretrial detainees are held separately from convicted prisoners.

The Government permits prison visits by human rights monitors. Local justices of the peace regularly inspect prisons, but these visits rarely are unannounced, and justices of the peace speak with prisoners in the presence of Correctional Services Department staff. Human rights monitors have called for revisions to the inspection system.

#### d. Arbitrary Arrest, Detention, or Exile

Common law, precedents previously in force, and the Basic Law provide substantial and effective legal protection against arbitrary arrest or detention and the Government generally observes these provisions. Suspects must be charged within 48 hours or released. The average length of preconviction incarceration does not exceed 80 days.

The law does not provide for, and the Government does not use, forced exile.

#### e. Denial of Fair Public Trial

The Basic Law provides for an independent judiciary and the Government generally respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process. The judiciary has remained independent since the handover, underpinned by the Basic Law's provision that Hong Kong's common law tradition be maintained. Under the Basic Law, the courts may interpret on their own provisions of the Basic Law that are within the limits of the autonomy of the region. The courts also may interpret other provisions of the Basic Law that touch on central government responsibilities or on the relationship between the central authorities and the SAR, but before making final judgments on these matters, which are unappealable, the courts must seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress (in the controversial 1999 "right of abode case," the Government, not the court, sought an interpretation from the Standing Committee). When the Standing Committee makes an interpretation of the Basic Law provisions concerned, the courts, in applying those provisions, "shall follow the interpretation of the Standing Committee." Judgments previously rendered are not affected. The National People's Congress vehicle for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The Hong Kong members are nominated by the Chief Executive, the President of the Legislative Council, and the Chief Justice. Human rights and lawyers' organizations long have expressed concern that these exceptions to the Court of Final Appeal's power of final adjudication and this interpretation mechanism could be used to limit the independence of the judiciary or could degrade the courts' authority.

In the controversial 1999 right of abode case the Government, which had lost the case in the Court of Final Appeal, asked the court to clarify its decision. After the clarification, which did not fundamentally alter the court's decision, the Government sought a reinterpretation of the Basic Law provisions at issue in the case from the NPC Standing Committee (NPCSC). The NPCSC's reinterpretation meant that the ruling by the Court of Final Appeal, which remained in force for the abode claimants involved in the case, would not apply to those with similar abode claims. The reinterpretation also raised questions about the potential future independence and ultimate authority of Hong Kong's judiciary. Since the controversy, the Government has expressed its intention to make recourse to the NPC interpretation mechanism a rare and exceptional act. In several right of abode cases before the Court of Final Appeal during the year, the Government argued that the Court should seek an NPCSC interpretation of relevant Basic Law provisions, but did not seek one itself when the Court declined to do so, even in the one case that it lost.

The Court of Final Appeal is Hong Kong's supreme judicial body. An independent commission nominates judges; the Chief Executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. Legal experts complained that the commission's selection process is opaque. In November 2000, legislators requested that the process be made transparent. The Government responded that privacy concerns prevented opening the process to the public. The Basic Law provides that, with the exception of the Chief Justice and the Chief Judge of the High Court, who are prohibited from residing outside of Hong Kong, foreigners may serve on Hong Kong's courts. Approximately 40 percent of Hong Kong's judges are expatriates from other common law jurisdictions. Judges have security of tenure until retirement age (either 60 or 65, depending on date of appointment).

Beneath the Court of Final Appeal is the High Court, composed of the Court of Appeal and the Court of First Instance. Lower judicial bodies include the District Court (which has limited jurisdiction in civil and criminal matters), the magistrates courts (which exercise jurisdiction over a wide range of criminal offenses), the Coroner's Court, the Juvenile Court, the Lands Tribunal, the Labor Tribunal, the Small Claims Tribunal, and the Obscene Articles Tribunal.

The law provides for the right to a fair public trial, and an independent judiciary generally enforces this right. Trials are by jury, and the judiciary provides citizens with a fair and efficient judicial process.

Under corruption prosecution rules, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that which is commensurate with his official income or who is in control of monies or property

disproportionate to his official income is, unless he can satisfactorily explain the discrepancy, guilty of an offense. The courts have upheld this practice.

Human rights activists remain concerned that the legal system may favor those closely aligned with China or with powerful local institutions. In particular, concerns were raised by two past Justice Department decisions, in which the Government decided not to prosecute the New China News Agency for alleged violations of the Privacy Ordinance (see Section 1.f.) or to prosecute a prominent newspaper editor with close ties to Beijing who was accused of fraud.

In 1998 the Provisional Legislature passed the controversial Adaptation of Laws (Interpretive Provisions) Ordinance, which replaced the word "Crown" in Hong Kong legislation with the word "State" in hundreds of existing laws. Critics expressed concern that this change would place the Chinese government organs above the law, since laws that previously did not apply to the Crown would not apply to the (Chinese) State, including Central Government organs stationed in Hong Kong. Since 1998 58 laws have been amended to encompass the State specifically.

According to the Basic Law, English may be used as an official language by the executive, legislative, and judicial branches. For historical reasons and because of the courts' reliance on common law precedents, almost all civil cases and most criminal cases are heard in English. In recent years, however, the Government has developed a bilingual legal system. It has increased the number of officers in the Legal Aid Department proficient in Chinese and extended the use of bilingual prosecution documents and indictments. All laws are bilingual, with the English and Chinese texts being equally authentic. All courts and tribunals may operate in either Chinese or English. Judges, witnesses, the parties themselves, and legal representatives each decide which language to use at any point in the proceedings.

Some human rights groups have expressed concern that the Government has not protected vigorously enough the interests of Hong Kong residents arrested in mainland China. Complicating the Government's effort is the absence of an agreement allowing Hong Kong officials access to Hong Kong citizens arrested or detained in mainland China. Under an agreement signed in October 2000 and in effect since January 1, PRC and Hong Kong public security authorities notify each other of certain categories of detentions of each other's residents.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits arbitrary interference with privacy, family, home, and correspondence, and the Government generally respects these prohibitions in practice. However, interception of communications can be, and is, conducted under the Telecommunications Ordinance and the Post Office Ordinance. Wiretaps require authorization for interception operations at the highest levels of government, but a court-issued warrant is not required. The Government has refused to reveal how often the Chief Executive uses his powers to authorize telephone wiretaps and interception of private mail.

The Office of the Privacy Commissioner for Personal Data (PCO), established under the Personal Data (Privacy) Ordinance (PDPO), is tasked with preventing the misuse and disclosure of data such as medical and credit records. The PDPO also prohibits matching sets of personal data without the consent of the subject individual or the commissioner, although some government departments were exempted in order to combat social welfare abuse and tax evasion. Some violations of the PDPO constitute criminal offenses. In other cases, an injured party may seek compensation through civil proceedings. If the PCO believes that violations may continue or be repeated, it may issue enforcement notices to direct remedial measures. From the end of 1996 when the PDPO took effect through the end of October, the PCO had received 2,655 complaints. In the 2,538 completed investigations, the PCO found violations of the PDPO in 143 cases, resulting in 13 cases referred to the Department of Justice and the police for prosecution consideration, the issuance of 37 enforcement notices and 93 warning notices. Of the 13 cases referred to the Department of Justice and the police, the Government as of October had decided to prosecute 2 cases and not to prosecute in 11 cases.

Under the Adaptation of Laws (Interpretive Provisions) Ordinance, the Personal Data Privacy Ordinance is not applicable to PRC government organs in Hong Kong. The Government still is considering whether the PDPO should apply to Chinese government organs. In June 1999, the High Court dismissed a legislator's civil suit over the failure of the then-New China News Agency (NCNA) to respond within the PDPO-specified time frame to the legislator's request for information about herself in the agency's files, because the NCNA Director named in the suit was not in Hong Kong at the time the incident occurred. In October 2000 the Director of the NCNA, now known as the Liaison Office, served the legislator a writ requiring the legislator to pay his court costs, as is allowed under Hong Kong law. The prodemocracy legislator eventually paid her opponent's court costs with a combination of public donations and personal funds.

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

#### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the Government generally respects this right in practice; however, those who monitor press freedom assert that some journalists and news media practice a degree of self-censorship, particularly in mainland related reporting. Senior government officials regularly made statements in support of these freedoms. Overall, the media has been outspoken in defending civil liberties; however, two laws potentially allow limits on some speech and press freedoms. The Telecommunications Ordinance grants the Government wide-ranging powers to ban messages whenever it

"considers that the public interest so requires." The Public Order Ordinance enables the Government to ban a demonstration on national security grounds, including as a factor whether a demonstration advocates independence for Tibet or Taiwan. In practice this situation has not arisen as only 5 demonstrations—out of more than 9,700 since the handover—have been disallowed, and none for national security reasons (see Section 2.b.). In November 1999, the U.N. Human Rights Committee expressed concern that the offenses of treason and sedition under the Crimes Ordinance are defined in overly broad terms, thus endangering freedom of expression. The Basic Law requires that the Government enact legislation prohibiting "treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets." The process of developing this legislation continues with no indication of when it will conclude.

Individuals may criticize the Government publicly or privately without reprisal. Persons speak freely to the media, and many use the media to voice their views. Political debate is vigorous, and numerous viewpoints, including stories and opinions critical of the SAR and Chinese Governments and statements by leading Chinese dissidents and proindependence Taiwan activists, are provided in the mass media, in public forums, and by political groups.

The founder of the Information Center for Human Rights and Democracy Movements in China (which issues press releases on human rights-related strikes, demonstrations, and arrests in China), reported that harassment from the mainland by PRC security agencies continued in the form of regular electronic attacks on his pager.

In a move some human rights organizations decried as an attack on free speech, the Government early in the year reviewed the tax exempt status of a nongovernmental organization (NGO) that had been vocal in its opposition to certain government policies. The stated cause for the review was the group's participation in various public activities on issues not explicitly related to the organization's chartered purpose. Human rights groups noted that the Government was not reviewing the tax-exempt status of progovernment NGO's that participated in similar public activities tangential to their main purpose. In March the Government, which denied the review was politically motivated, informed the group of its decision not to revoke its tax-exempt status.

It is illegal to desecrate publicly and willfully a PRC or Hong Kong flag or emblem. In December 1999, the Court of Final Appeal ruled unanimously that laws against flag-desecration did not violate the Basic Law (or the International Covenant on Civil and Political Rights (ICCPR) subsumed therein) and reinstated the 12 months' probation given to two persons convicted of desecrating the Hong Kong and Chinese flags during a peaceful demonstration in 1998. In February, a prominent local activist was convicted of desecrating the Hong Kong flag by publicly and willfully defiling it during three separate public protests in July 2000 and was placed on a 12-month good behavior bond for \$385 (HK\$3,000). Human rights groups maintained that laws prohibiting flag desecration do not comply with Article 19 of the ICCPR and are therefore not consistent with Hong Kong's international legal obligations.

Newspapers publish a wide variety of opinions, including opinions on Taiwan, Tibet, PRC leadership dynamics, Communist Party corruption, and human rights. There are 15 daily newspapers, all privately owned in name although four are supported financially—and guided editorially—by the PRC (Wen Wei Po, Ta Kung Pao, the Hong Kong Commercial Daily, and the China Daily). The non-PRC-owned newspapers, hundreds of periodicals, four commercial television stations (broadcast and cable) and two commercial radio stations function with virtually no government control. International media organizations operate freely. Foreign reporters need no special visas or government-issued press cards.

China still requires journalists—both foreign and those from Hong Kong—to apply for permission to make reporting trips to the mainland. At least one publication whose owner offended China's leadership in the mid-1990's subsequently has been unable to get official permission for its reporters to cover events on the mainland.

Although regular coverage of supposedly taboo or sensitive subjects continue to appear in print and in the broadcast media, groups that follow press freedom in Hong Kong assert that media self-censorship continues and that certain subjects are emerging as "no go" areas for some media outlets. Such subjects include topics of particular sensitivity to China or Hong Kong's powerful business interests, leadership dynamics, military activity, Taiwanese or Tibetan independence, or powerful businessmen's relations with the mainland Government.

The pressure to self-censor purportedly comes from the belief by some publishers and editors that advertising revenues or their business interests in China could suffer if they were seen to be too antagonistic to China or to powerful local interests. In December 2000, four newspapers printed Falun Gong advertisements protesting Chinese government persecution of its members. Three newspapers, however, refused to print the advertisement; one based its refusal on the grounds that the advertisement was "defamatory of the Central Government."

In October the South China Morning Post's (SCMP) new English-language competitor, the Hong Kong iMail, abruptly dropped a satirical comic strip, which had found new life after having been dropped by the SCMP in 1995 after it implicated then-PRC Premier Li Peng in the sale of organs from executed prisoners. The newspaper also dropped much of its extensive and critical political coverage of Hong Kong and China, as it shifted focus predominantly to business-related news. The publisher portrayed the cuts as cost-saving measures.

The sudden departure from the SCMP in November 2000 of its long-time China observer Willy Wo-lap Lam continued to be described by human rights organizations as an example of media self-censorship related to a media owner's commercial interests in China. The Hong Kong Journalists Association noted in its annual

report on press freedom that the SCMP since Lam's departure had continued to report on sensitive China issues, but lamented the paper's "cessation" of reporting on internal political maneuvering within the top Chinese leadership and the possible effect that this reporting gap might have on both the mainland and Hong Kong. The paper continued to cover internal PRC politics, but much less often than during Lam's tenure.

In 1999 in response to a growing number of complaints about tabloid-style journalism that encouraged intrusive reporting by the press, the Law Reform Commission suggested that the Government appoint a Press Council with the power to reprimand or fine a publication found to be "in serious breach of the Privacy Code." Public reaction included concerns by journalists, legal experts, human rights activists, and others that such a body could be used to restrict press freedom. The Government indicated its preference that the media should regulate itself. Many (but not all) major newspapers and news associations established an industry watchdog, the Hong Kong Press Council, which began its work in September 2000. Some critics complained that some newspapers, including those with the most invasion of privacy complaints against them (the Oriental Daily, the Apple Daily, and the Sun), had declined to participate in the voluntary organization. Others expressed concern that even this nonstatutory organization could potentially be abused to restrict press freedoms. In the first year of the new organization's work, it received 40 complaints from readers, who claimed intrusion of privacy, or complained of exaggerated, inaccurate, or overly graphic reporting. Three quarters of the complaints were directed at nonmember organizations. The Council in several cases requested explanations or corrections from the offending media organ and in at least one case claimed responsibility for a published apology by a nonmember. The Press Council in October and November argued that it should expand its scope to include "excessive behavior" of journalists and "unethical reporting" and sought legislation that would give it "qualified privilege" from being sued for libel by newspapers which come under Press Council criticism. Free press advocates continued to oppose the Press Council as a body that could be used to restrict press freedom, and spoke out against any increase in the Council's powers.

The government-owned Radio Television Hong Kong (RTHK) continued to enjoy the editorial independence granted to it in its charter, but pressure on it from local pro-PRC figures to moderate coverage of politically sensitive issues continued. In May, the PRC-owned newspaper Wen Wei Po criticized RTHK for suggesting that Tibet was a country. RTHK subsequently issued a statement that Tibet was part of China, that the presenter had been quoting the views of others, and admitted that the segment was "lacking in impartiality." RTHK later gave a more complete explanation of the Tibet question and included the PRC stance. In June a pro-PRC politician called on the Government to require RTHK to use a term other than "President" when referring to the leader of Taiwan, an entity the PRC refers to as a province. RTHK declined to change its practice but stated publicly that its treatment of the subject did not imply that Taiwan is an independent sovereign state. In November the Government reaffirmed its policy of maintaining the editorial independence of RTHK in response to criticism that the Chief Executive's description of one program as being "in bad taste" might indicate a change in the Government's attitude. Debate continues over the desirability of privatizing RTHK.

In November 2000, a lawyer sued two radio talk show hosts for defamation, and the Court of Final Appeal ordered a retrial when it ruled that the trial judge in a lower court had misdirected a jury in a way that could endanger freedom of speech. In so doing, the Court effectively overturned a 150-year old guideline for defamation cases and called for a more generous approach toward the defense of fair comment by ruling that honest remarks, even those made with malice, could still be construed as fair comments.

At an April 2000 public seminar, a senior deputy director of the Central People's Government Liaison Office in Hong Kong (formerly called the New China News Agency or Xinhua) stated that Hong Kong should expedite the drafting of antsubversion laws required by Article 23 of the Basic Law in order to define the difference between reporting on the issue of Taiwan independence and advocating independence (in order to make it clear what kind of reporting on Taiwan was permitted). The official's remarks created a furor among politicians, human rights activists, and the media, and renewed concerns over the drafting of the antsubversion law required by the Basic Law. Some saw the official's remarks regarding Taiwan as a warning to the press not to advocate independence for Taiwan. Then-Acting Chief Executive Anson Chan issued a statement affirming freedom of the press under the Basic Law and restated the Government's position that the timetable and content of antsubversion legislation had yet to be decided. Following the incident, there was no apparent diminution in Hong Kong media reporting on Taiwan, including of proindependence views.

A publisher of Falun Gong publications again successfully reserved prominent space at the annual Hong Kong International Book Fair, but decided to leave the space vacant. A representative of the PRC-banned Quan Yin Method promoted by the Taiwan-based Supreme Master (or Suma) Ching Hai International Association occupied a booth at the Fair.

After some Hong Kong publishing houses owned by mainland Chinese interests declined to continue publishing Falun Gong materials after the movement was banned on the mainland in July 1999 (see Section 2.c.), the Falun Gong shifted the majority of its publishing to companies based elsewhere. The group is able to print flyers and small items in Hong Kong, despite reported concerns of some printers about associating with the group. Some bookstores continued to offer Falun Gong materials for sale, but bookstores operated by Chinese enterprises that removed Falun Gong books from their shelves in the wake of the July 1999 mainland ban on the movement continued to refuse to carry Falun Gong publications.

The Government generally does not restrict or censor cultural events and exhibits. However, some observers saw the decision of senior government officials not to meet with the mainland-born Gao Xingjian, the first Chinese to win the Nobel Prize for Literature, during his January visit to Hong Kong as deference to PRC displeasure with the award to the exiled writer. One complaint was that the Government's reluctance to associate with the writer, most of whose works are banned in China, contributed to the idea that Hong Kong residents should "self-censor" their behavior with a view to PRC political sensitivities. At the same time, however, Gao's writings sold briskly as public interest in the writer's works increased. In addition, a major Hong

Kong university—which receives significant Government funding—subsequently bestowed an honorary doctorate on Gao.

The Basic Law provides for academic freedom, and the Government respects that freedom in practice. There is independent research, a wide range of opinions, and lively debate on campuses. The Hong Kong University-based pollster, whose allegations in 2000 that the Government had pressured him to stop conducting polls on the Chief Executive's declining popularity, and led to the resignations of two senior University officials, continued his polling work unrestricted. However, the academic no longer issued public releases to announce his poll results but rather posted them on a Web site. As of September, a University task force set up to monitor academic freedom on the campus in the wake of the controversy had received no substantive reports of infringements; however, a university-appointed Commission set up in 2000 to review the controversy found the pollster's allegations were credible.

In July, the Government allowed Hong Kong-based U.S. academic Li Shaomin to enter Hong Kong and return to work despite the fact that Li had been convicted of espionage by the PRC and expelled from the mainland only days earlier. Reportedly, Li's "offense" had been receiving and sharing information on business practices on the mainland that would be considered public information in most countries. Li's university allowed him to resume his position despite calls from some pro-PRC figures that he be fired. Li's pay eventually was docked for the months he spent away from work while detained in the mainland.

There are no restrictions on the use of the Internet.

#### b. Freedom of Peaceful Assembly and Association

The Basic Law provides for freedom of assembly and the Government generally respects this right in practice. The Government routinely issues the required permits for public meetings and demonstrations. Article 23 of the Basic Law provides that Hong Kong shall enact laws to prohibit subversion, secession, treason, and sedition against the Chinese Government. The process of developing this legislation continues with no indication of when such laws may be enacted. Prehandover amendments to the Crime Ordinance narrowed the definition of treason and sedition to include a "proven intention of causing violence or creating public disorder or a public disturbance." However, the amendments stipulate that the Government must name the date when the change is to take effect, and the Government has chosen not to enact the amendments until comprehensive legislation dealing with all "Article 23 crimes" is developed. In the interim, preexisting provisions in the Crimes Ordinance dealing with treason and sedition continue to apply.

A posthandover revised Public Order Ordinance reintroduced the concept of the notice of no objection for public processions and empowered police to object to demonstrations on national security grounds as well as to protect the rights and freedoms of others. Under the law, demonstration organizers must notify the police of their intention to demonstrate 1 week in advance (shorter notice is accepted when the Commissioner of Police is satisfied that earlier notice could not have been given) for a march involving more than 30 persons and for an assembly of more than 50 persons. The police must give a clear reply within 48 hours if it objects, but otherwise no reply indicates no objection. In practice, demonstrators can assume "no objection" if they are not notified otherwise by 48 hours in advance of the planned demonstration. The national security provision never has been invoked. Appeals of a denial to demonstrate may be made to a statutory appeals board comprising members from different sectors of society. No public official is on the board. Both the board's proceedings and the police's exercise of power are subject to judicial review.

Student groups and human rights activists continued to criticize the Public Order Ordinance and called for amendments to the law. Some also demanded that it be repealed on the grounds that its provisions violated the right of assembly and the International Covenant on Civil and Political Rights (ICCPR). In December 2000, in a vote heatedly opposed by prodemocracy legislators, the Legislative Council supported the ordinance in its current form by a vote of 36 to 21. Proposed amendments to the Public Order Ordinance include reducing the advance notification period, doing away with the notice of no objection, eliminating "excessive" criminal penalties of up to 5 years in prison, and requiring the police to obtain a court order in order to prohibit a demonstration. In what amounts to acts of civil disobedience, one group refuses to comply with the notification provisions, and it has made clear its intention to continue to do so until the law is revoked. The U.N. Human Rights Committee in November 1999 noted its concern that the ordinance could be applied to restrict the right of assembly unduly, and it called on the Government to review the law and bring its terms into compliance with the ICCPR.

Since the handover, there have been over 9,700 public meetings and public processions—an average of approximately 6 per day, which is roughly 50 percent higher than prehandover rates. Approximately half of these demonstrations required notification. Since the handover, the police have objected to 8 demonstrations, three of which went ahead after the demonstration organizers altered their plans. In the first 10 months of the year, police objected to 3 out of 1,860 demonstrations (two processions, one meeting) on the grounds that they were likely to cause undue disruption to vehicular traffic in a way that would affect emergency vehicles responding to emergencies. The meeting and one of the processions involved a request to conduct a container truck "slow drive" through the central business district to protest container-handling fees. The other procession denied involved a proposal to conduct a vehicular procession to protest proposed changes to village electoral arrangements (see Section 4).

Demonstrators have complained that demonstrations often are limited to "designated areas" where they receive little public attention and that police sometimes outnumber demonstrators. A police order issued in September 1998, while underlining that it is police policy "to facilitate, as far as possible, all peaceful public order events," also stipulates that certain "internationally protected persons" are, in addition to security, entitled to "protection of their dignity." Human rights activists remain concerned that the policy could lead to the use of

police tactics that the IPCC had previously ruled were inappropriate. These issues were prominent in May when PRC President Jiang Zemin participated in a global business forum in Hong Kong. Although numerous demonstrations took place, including demonstrations by hundreds of local and foreign Falun Gong practitioners, designated protest zones were 975 feet from the conference venue and mostly out of sight and earshot of the forum participants. The Government also denied entry into Hong Kong to approximately 100 overseas Falun Gong practitioners who had planned to participate in demonstrations. One minor scuffle between police and (non-Falun Gong) protesters led to charges against a handful of demonstrators, which in the end resulted in acquittals of the protesters and a judge's criticism of police behavior.

In addition to assemblies and marches on Hong Kong-related issues, groups continue to be free to demonstrate on issues of sensitivity in mainland China. In late May, approximately 1,500 persons marched through central Hong Kong to commemorate the 12th anniversary of the June 4, 1989, massacre in Beijing's Tiananmen Square. On June 4, tens of thousands attended the annual candlelight vigil to commemorate the anniversary. Falun Gong practitioners regularly conduct public protests against the crackdown on fellow practitioners on the mainland, including directly in front of the Hong Kong offices of the Central Government. However, in August, police briefly detained several Falun Gong protesters for obstructing a public area outside of those PRC offices. No charges were filed and the protests continued, although in a designated area to one side of the Liaison Office's entrance. In November police seized Falun Gong protesters' placards and banners, again on the grounds of public obstruction. When the protesters replaced the signs and banners the following day with identical ones, police warned of additional seizures, but the protests, with banners, continued through the end of the year with no further police action.

Falun Gong adherents report that, unlike in previous years, they have been unable to secure appropriate facilities to host an annual international conference of Falun Gong practitioners. The group's applications to rent both government-administered and privately owned facilities were repeatedly turned down.

The Basic Law provides for freedom of association and the Government generally respects this right in practice. Since the handover, no applications for registration have been denied. From January through October, the Societies Licensing Office of the police registered 1,176 new organizations for a total of 5,851 registered since the 1997 handover. However, the "Never Forget June 4 Organization," whose constitution calls for the end of one party rule in China, claimed that the police continue to delay the group's registration. The police claimed not to have received any application from a group by that name. Human rights groups also have expressed concern that the amended Societies Ordinance—which like the amended Public Order Ordinance was passed by the Provisional Legislature—could be used to restrict political activity. The Societies Ordinance requires that new societies must apply for registration within 1 month of establishment. The Government may refuse registration if it believes that the refusal is necessary in the interests of national security, public safety, public order, or the protection of the rights and freedom of others. The Government also may refuse to register a political body that receives support from a foreign political organization or a Taiwan-based political organization. The U.N. Human Rights Committee in November 1999 noted its concern that the ordinance could be applied to restrict unduly the right of association and called on the Government to review the law so as to ensure full protection of the right to freedom of association under the ICCPR.

#### c. Freedom of Religion

The Basic Law provides for freedom of religion, the Bill of Rights Ordinance prohibits religious discrimination and the Government respects these provisions in practice. The Government at all levels protects religious freedom in full, and does not tolerate its abuse, either by government or private actors.

The Government does not recognize a state religion but does grant public holidays to mark numerous special days on the traditional Chinese and Christian calendars, as well as the Buddha's birthday.

Religious groups are not required to register with the Government and are exempted specifically from the Societies Ordinance, which requires the registration of nongovernmental organizations. Some groups, such as the Falun Gong and various other qigong groups that do not consider themselves religions, have registered under the Societies Ordinance. Catholics freely and openly recognize the Pope as the head of the Catholic Church.

Although under the Basic Law the PRC Government has no say over religious practices in Hong Kong, its representatives in the SAR and the two PRC-owned newspapers have criticized some religious and other spiritual groups and individuals there. Hong Kong religious leaders also have noted that the Basic Law provision that calls for ties between local religious organizations and their mainland counterparts to be based on "nonsubordination, noninterference, and mutual respect" could be used to limit such ties. In 2000 mainland authorities reportedly claimed a Hong Kong Catholic church leader had violated this noninterference clause by criticizing mainland religious policies. During this time period the Hong Kong Catholic Church reportedly had many contacts and exchanges with its counterparts in the mainland's official church put on hold. Also in 2000, Hong Kong-based Chinese officials urged Hong Kong's Catholic Church to keep "low key" any celebrations of the October 1 canonization by the Pope of 120 foreign missionaries and Chinese Catholics who had been martyred in China. These criticisms had little or no effect on activities in Hong Kong.

The spiritual movement widely known as Falun Gong is registered under the Societies Ordinance (since it does not consider itself a religion), practices freely, and holds regular public demonstrations against PRC policies. There were, however, a series of developments that sparked concerns about pressures on the Government to constrain the group's criticism of the PRC's anti-Falun Gong policies. An international Falun Gong conference held at a Government-owned facility in January drew intense criticism by pro-PRC organizations as well as PRC Government spokesmen. Statements by Chief Executive C.H. Tung in May and June that the group was "no doubt an evil cult" and that the Government would not let the Falun Gong "abuse

Hong Kong's freedoms and tolerance to affect public peace and order" in Hong Kong or in the mainland prompted concern about the possibility of the Government taking action against the group, such as by enacting "anti-cult" legislation. The Government confirmed that it was studying the possibility, but stated in June that it had "no plans at present" to introduce such legislation. Prior to PRC President Jiang Zemin's visit in May, the Government claimed that the local Falun Gong practitioners' plan for demonstrations during the visit was "a deliberate move to undermine the relationship between Hong Kong and the central government" and subsequently barred entry into Hong Kong of approximately 100 overseas-based Falun Gong practitioners. Nonetheless, several hundred local and foreign Falun Gong practitioners demonstrated freely on numerous occasions and at numerous venues during President Jiang's visit. Police actions in August and November raised questions about the group's freedom of assembly and expression (see Section 2.b.), and unlike in previous years, the Falun Gong has been unable to secure a suitable venue to host a planned fifth international conference in Hong Kong (see Section 2.b.). Falun Gong representatives claim that Hong Kong practitioners remained generally undeterred by these developments, but state that the number of practitioners in Hong Kong has dropped from approximately 1,000 to approximately 500 since the PRC government began its mainland crackdown in mid-1999. Some Hong Kong publishing houses owned by mainland Chinese interests stopped publishing Falun Gong materials after the movement was banned on the mainland in July 1999, and some bookstores operated by mainland enterprises removed Falun Gong books from their shelves (see Section 2.a.).

Other martial arts/meditation groups, known collectively as qigong groups, including Zhong Gong (which was banned in the PRC in late 1999), Xiang Gong, and Yan Xin Qigong, also are registered as societies and practice freely. Another group allegedly listed as an "evil cult" by the PRC, the Taiwan-based Quan Yin Method, is registered legally and practices freely.

#### d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation

The Basic Law provides residents freedom of movement within Hong Kong, freedom of emigration, and freedom to enter and leave the territory, and the Government generally respects these rights in practice. Travel documents are obtained freely and easily; however, there are some limits on travel to the mainland imposed by the mainland Government.

As was the case before the handover, the Taiwan passport is not recognized as valid for visa endorsement purposes.

In the past, several prominent overseas dissidents have been denied visas to enter Hong Kong. In May the Government denied entry to approximately 100 overseas Falun Gong practitioners coming to participate in demonstrations during PRC President Jiang Zemin's visit (see Section 2.c.). In November the Government denied entry to a handful of overseas antiglobalization activists, planning to participate in protests at an international economic forum.

Chinese authorities do not permit a number of Hong Kong human rights activists and prodemocracy legislators to visit the mainland. Political and human rights activists assert that the restriction on travel to the mainland on those who disagree with the central government's policies has a potential dampening effect on political debate, particularly among those with business interests on the mainland.

The 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol does not extend to Hong Kong, and the SAR eliminated its first asylum policy (extended only to Vietnamese) in 1998. On a case-by-case basis, the Director of Immigration has discretion to grant refugee status or asylum in cases of exceptional humanitarian or compassionate need, but the Immigration Ordinance does not provide foreigners any right to have their asylum claim recognized. The general practice is to refer refugee and asylum claimants to a lawyer or to the office of the U.N. High Commissioner for Refugees (UNHCR). Those granted refugee status, as well as those awaiting UNHCR assessment of their status, receive a subsistence allowance from the UNHCR, but are not allowed to seek employment or enroll their children in local schools. The UNHCR works with potential host country representatives in Hong Kong to resettle those designated as refugees. Government policy is to repatriate all illegal immigrants, including those that arrive from the mainland, as promptly as possible. From January to October, a total of 7,140 illegal PRC immigrants were repatriated to the mainland. Human rights groups have complained of a few cases in which seekers of asylum or refugee status have been arrested for illegal immigration and incarcerated for periods of up to several months, but there were no reports of the forced return of persons to a country where they feared persecution.

In 2000 the Government terminated its Millport policy, under which Vietnamese asylum seekers intercepted in boats in Hong Kong waters were assisted in their voluntary departure from Hong Kong. In a move welcomed by human rights groups and the UNHCR, the Government in June 2000 approved for permanent resettlement approximately 1,400 Vietnamese refugees and migrants. With this action the Government closed the world's last remaining Vietnamese refugee camp (Pillar Point), and brought to an end the resettlement process that had handled more than 220,000 Vietnamese who had landed in Hong Kong since 1975. As of October approximately 4 percent of the 1,400 persons approved for resettlement continued to decline the Government's offer, and instead chose to retain their refugee status in order to continue to seek resettlement elsewhere. Since the closure of the Pillar Point camp, 462 Vietnamese illegal immigrants have been intercepted, with the rate of interceptions steadily dropping.

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

Residents' right to change their government is limited by the Basic Law, which provides for the selection of the Chief Executive by an 800-person selection committee (which itself largely is appointed or indirectly elected), the direct election of less than half of Legislative Council members, and the inclusion of appointed members to

the elected district councils. In addition while the approval of the Chief Executive, two-thirds of the legislature, and two-thirds of Hong Kong's National People's Congress delegates is required to place an amendment to the Basic Law originating in Hong Kong on the agenda of China's National People's Congress, it is the National People's Congress that has the power actually to amend the Basic Law. Procedures for amendment or interpretations that originate in the mainland are unclear.

The Government is executive-led, with a two-tiered legislative system consisting of the Legislative Council and 18 district councils, and is staffed by a professional and independent civil service. C.H. Tung is Chief Executive.

The Chief Executive was chosen prior to the handover by a 400-member selection committee, which in turn was chosen by a 150-member preparatory committee appointed by the Chinese Government. The Basic Law provides for elections for Chief Executive in 2002 and 2007 by a committee of 800 local residents. This committee is made up of the 60 members of the Legislative Council, the 36 Hong Kong delegates to the National People's Congress, 41 representatives of Hong Kong members of the Chinese People's Political Consultative Conference, 40 representatives from religious groups, and 623 persons elected by the same approximately 180,000 voters (some representing organizations; others voting as individuals) who choose the functional constituency representatives of the Legislative Council. The Basic Law permits amendment of the Chief Executive selection process after 2007 by a two-thirds majority of the Legislative Council, with the consent of the Chief Executive and the Standing Committee of the National People's Congress. The Basic Law states that "the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." To date, the Government has not initiated any steps to prepare for a change in the procedure for choosing the Chief Executive.

A provisional legislature, appointed by the same 400-member committee that appointed the Chief Executive, served from July 1, 1997, until June 30, 1998. Although the Provisional Legislature included 33 of 34 legislators from the 1995 Legislative Council who sought inclusion, the Democratic Party and several independents declined to seek seats in what they deemed an illegitimate body, which they claimed lacked a legal foundation and transparency, and excluded groups, parties, and individuals critical of China. The Provisional Legislature repealed several laws that had been enacted by the elected Legislative Council to enhance civil and political rights, including: Amendments to the Bill of Rights Ordinance; the Employee Right to Representation, Consultation, and Collective Bargaining Ordinance; the 1997 Employment (Amendment) Ordinance, and the 1997 Trade Unions (Amendment) Ordinance (see Section 6.a.). A lawsuit challenging the constitutionality of the Provisional Legislative Council was unsuccessful, and the repeals remain controversial, albeit without further legal challenge.

Elections for the first and second posthandover Legislative Councils were held in May 1998 and September 2000, respectively. The Legislative Council was elected in 2000 to a 4-year term. In the first election, 20 members were elected directly from geographic districts through universal suffrage, 30 from functional (occupational) constituencies, and 10 by a 400-member selection committee of local residents. In the second, 24 members were elected directly from geographic districts through universal suffrage, 30 from functional constituencies, and 6 by votes of the 800-person selection committee which is composed of representatives of professions, district councils and religious groups, local representatives to Chinese national political bodies and Legislative Councilors. Prodemocracy candidates won 17 of the 24 seats elected on a geographic basis (including 1 in a December 2000 by-election) and 22 seats overall.

In both the 1998 and 2000 elections, the functional constituencies were drawn more narrowly than the nine broad functional constituencies of the 1995 Legislative Council, as the total number of potential voters in functional constituencies was reduced from 1.15 million in 1995 to 180,000 in 1998. Human rights groups contend that the election of functional constituency representatives by so few persons is fundamentally undemocratic. There was general acceptance of the geographic electoral districts (which include 3 million registered voters) proposed in 1997 by the Electoral Affairs Commission. A bill calling for an accelerated time line for direct election of all Legislative Council seats was defeated in the Legislative Council in 1998. The Basic Law states that the "ultimate aim is the election of all the members of the Legislative Council by universal suffrage." In August, the U.N. Committee on Economic, Social and Cultural Rights noted that the "current arrangements for the election of the Legislative Council include some undemocratic features which impede the full enjoyment of economic, social and cultural rights" in Hong Kong.

In December 2000 the Court of Final Appeal ended a century-old practice of excluding nonindigenous villagers from participating in rural elections. The Court unanimously found that the practice violated both the Bill of Rights and the Sex Discrimination Ordinances. The Government is working with the affected parties to put together an alternative arrangement.

The ability of the legislature to influence policy is limited substantially by Basic Law provisions that require separate majorities among members elected from geographical and functional constituencies in order to pass a bill introduced by an individual member and that prohibit the Legislative Council from putting forward bills that affect public expenditure, political structure, or government operations. The Chief Executive's written consent is required before bills affecting government policy may be introduced. Additionally, the Government has adopted a very broad definition of "government policy" in order to block private member bills, and the President of the Legislative Council has upheld the Government's position. A motion proposed by a prodemocracy legislator to repeal restrictions on private members' bills was rejected in January 2000; however, the Legislative Council's degree of popular representation and outspokenness gives the Government cause to consider its views. In June 2000 when the Legislative Council passed a no-confidence motion against two senior housing officials, the more senior of the two resigned. In January 1999, the Government blocked a legislator's attempt to introduce two bills on collective bargaining and antiunion discrimination on the grounds that they would affect government spending and operations and therefore fell outside the scope allowed for

private member bills under the Basic Law.

The November 1999 elections for Hong Kong's District Councils were free and fair; however, democratic legislators and human rights activists complained that the appointment of nearly one-quarter of District Councilors by the Chief Executive is an undemocratic procedure. According to the District Councils Ordinance, the District Councils are responsible for advising the government on matters affecting: (1) the well being of district residents; (2) the provision and use of public facilities; and (3) the use of public funds allocated for local public works and community activities.

An October 1999 motion in the Legislative Council calling for a referendum on the Government's proposal to abolish the Urban and Regional Councils, Hong Kong's mid-tier local government organs known collectively as the Municipal Councils, was defeated. In December 1999, the Legislative Council passed a controversial bill abolishing the Municipal Councils when their terms expired at the end of the year. The Councils had been the subject of widespread public criticism for their poor handling of the Avian Flu, the Red Tide, and other public health issues for which they were responsible. Legislators from the democratic parties and human rights activists protested the abolition of the councils, arguing that they were important to the development of party and democratic political leaders. The U.N. Human Rights Committee in November 1999 also expressed concern that the abolition of the municipal councils would "diminish the opportunity of Hong Kong residents to take part in the conduct of public affairs."

Hong Kong sends 36 delegates to China's National People's Congress (NPC). These 36 individuals are potentially an important group, since placing proposed amendments to the Basic Law on the agenda of the NPC requires the approval of two-thirds of Hong Kong's NPC delegates. Hong Kong's NPC delegates also are members of the selection committee that chose 10 of the Legislature's 60 members in 1998 and 6 of the legislators in 2000. Hong Kong's NPC delegates were selected to a 5-year term in December 1997 by an NPC-appointed committee of 424 residents. Politicians and human rights activists criticized the selection process as undemocratic and lacking transparency and noted that Central Government Liaison Office (formerly the New China News Agency) Director Jiang Enzhu, who is not a Hong Kong permanent resident, is one of Hong Kong's 36 delegates.

The percentage of women in government and politics does not correspond to their percentage of the population, although larger numbers are seeking public office than ever before. Women hold 11 of the 60 Legislative Council seats, and make up between 5 and 33 percent of membership in political parties. The President of the Legislative Council is a woman, as are the heads of several government departments. The Equal Opportunities Commission, itself headed by a woman, noted that women were a minority in Government advisory bodies. A report in May 2000 compiled by the Hong Kong Federation of Women stated that only between 16 to 22 percent of judges, Executive Council members, advisory board members or top civil servants are women. Minorities are also represented in senior civil service positions.

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

A wide variety of domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases (see Section 2.b.). These organizations have unrestricted and thriving contacts with the local community and with groups overseas. Government officials generally are receptive to, and respectful of, their views. Prominent human rights activists who focus on mainland China also operate freely and enjoy permanent resident status in Hong Kong.

Under the Basic Law, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights apply to Hong Kong, with certain restrictions. The Chinese Government transmits Hong Kong's reports under these covenants, without editing, to the U.N. The reports are prepared without interference from the Chinese Government, but local NGO's have complained that they were not consulted fully enough on the contents of the reports. The Government and several domestic NGO's have testified before several U.N. human rights committees, including UNCESCR in Geneva, Switzerland. The hearings, including concerns of the Committee, have received widespread and balanced press coverage. In April a U.N. Committee considered Hong Kong's report under the International Covenant on Economic, Social and Cultural Rights. As part of a PRC delegation, the Government attended a July 31-August 1 Geneva hearing under the Convention on Elimination of All Forms of Racial Discrimination. Both hearings produced written concluding observations by the committees and written responses by the Government. The documents are freely and publicly available. Prior to the April hearing, the Government created a stir among human rights groups when a senior official wrote that U.N. committees' recommendations were not binding in international law. In August, the UNCESCR expressed regret that Hong Kong courts likewise viewed the International Covenant on Economic, Social and Cultural Rights (ICESCR) as "promotional" or "aspirational." In October 2000 Hong Kong's report under the International Convention on the Elimination of All Forms of Racial Discrimination was included in China's submission to the U.N. In May 2000 the Government sent representatives to attend, as part of China's delegation, hearings held by the U.N. Committee against Torture in Geneva on China's periodic report (which included a Hong Kong submission).

The Ombudsman Ordinance established the Office of the Ombudsman, which has wide powers to investigate and report on grievances from members of the public as a result of administrative actions of the executive branch and other designated public bodies. However, the credibility of the Ombudsman's independence is undermined by the fact that most of its staff is seconded from the Government, putting them in the position of investigating their former and future bosses. A proposal for the office to become independent of the Government in 2002 reportedly has received official approval. Another limitation is that the Ombudsman does not have oversight authority over the police, the Independent Commission Against Corruption, the Equal Opportunities Commission, or the Office of the Privacy Commissioner for Personal Data. The Ombudsman may investigate complaints of noncompliance with the code on access to information by government

departments, including the police and the Independent Commission Against Corruption. With regard to election-related complaints, the Ombudsman only is empowered to investigate complaints made against the Registration and Electoral Office, not those made against the Electoral Affairs Commission. Thus, the Ombudsman's human rights role regarding liberty of persons, freedom from arbitrary and unlawful arrest and detention, equality, and related matters is limited considerably.

The Ombudsman may publish investigation reports in which the identity of the complainant has been disguised. In addition to responding to public complaints, the Ombudsman may initiate investigations on his own. The Ombudsman may report to the Chief Executive if he believes that his recommendations to the organizations under his jurisdiction have not been acted upon or if there are serious violations; the Chief Executive is bound by law to present such reports to the legislature.

Human rights groups have complained that Hong Kong does not have a human rights commission. In August, the Committees on Human Rights and on Economic, Social and Cultural Rights (UNCESCR) again expressed particular concern that Hong Kong had failed to establish a broadly-mandated human rights institution.

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

The Basic Law provides that all Hong Kong residents are equal before the law. The Bill of Rights Ordinance, which provides for the incorporation into law of the International Covenant on Civil and Political Rights as applied to Hong Kong, entitles residents to the civil and political rights recognized therein "without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." However, the ordinance binds only the Government, public authorities and persons acting on their behalf; that is, not private persons or entities. Three pieces of antidiscrimination legislation—the Sex Discrimination Ordinance, the Disability Discrimination Ordinance, and the Family Status Discrimination Ordinance—have made it illegal for any person or entity (public or private) to discriminate against anyone on the grounds of sex, marital status, pregnancy, disability, or family status, and prohibits behavior such as sexual harassment, harassment or vilification on the grounds of disability, and discriminatory advertising. An Equal Opportunities Commission has been established to work toward the elimination of discrimination and to promote equality of opportunity with specific reference to gender, disability, and family status.

Human rights groups continued to call for laws specifically targeting, among other problems, public or private discrimination based on race and age. In May the UNCESCR concluded that Hong Kong's failure to prohibit race discrimination in the private sector constituted a breach of its obligations under the ICESCR. The Committee also urged Hong Kong to prohibit discrimination on the basis of sexual orientation and age. In August the U.N. Committee on the Elimination of Racial Discrimination recommended that "appropriate legislation be adopted to provide appropriate legal remedies and prohibit discrimination based on race, color, descent or national or ethnic origin." Meanwhile, press reports continued to identify examples of strong societal prejudice against minority groups including mainland Chinese migrants. The Equal Opportunities Commission continued to maintain that the elderly were discriminated against in the allocation of public housing, but noted that it was powerless to help, because there was no legislation prohibiting age discrimination.

Human rights activists generally considered the Government's Equal Opportunity Commission (EOC) an ally in the fight against discrimination. Past criticism of the organization for passivity and for emphasizing conciliation instead of acting as a watchdog or pursuing court cases disappeared as the Commission has become increasingly activist in its approach. Overall complaints to the Equal Opportunities Commission during the year rose 23 percent over 2000. During the year, the Equal Opportunities Commission received 1,181 complaints of sex discrimination, 807 of which involved the allocation of student placements in secondary schools. There were also 142 complaints of pregnancy discrimination, 99 of sexual harassment and 17 of marital status discrimination. By year's end, nine cases had been brought to court under the Sex Discrimination Ordinance, four of which had been pending resolution, and another three cases were settled out of court. During the year, 429 complaints were filed under the Disability Discrimination Ordinance; 3 of these cases went to court, 1 of which was pending resolution. During the year, 41 complaints were received under the Family Status Discrimination Ordinance, which protects persons whose marital status changes, who have children, or who are responsible for caring for another family member, such as a child or elderly person; one of the complaints had gone to court and was pending at year's end.

The Government's "Code of Practice for Employers," designed to prevent discrimination, states that race, among other factors, should not be considered when hiring employees. However, it accepts that special circumstances exist, such as when the employee works or lives in the employer's home. The Government has undertaken a public education and awareness campaign to combat race discrimination with only limited effect.

#### Women

Violence against women remains a problem, particularly among new immigrants from the mainland. The only law that specifically protects victims of domestic violence is the Domestic Violence Ordinance, which allows a woman to seek a 3-month injunction against her husband (extendable to 6 months). Domestic violence also may be prosecuted as common assault. The Government enforces the law and prosecutes violators, but sentences generally are lenient. In 2000 486 cases of domestic violence were reported to the police, while in the first 6 months of the year, 239 cases were reported. Cases of domestic violence reported to the Social Welfare Department from April 2000 to March increased 40 percent over the previous 12 months to 2,370 cases. Women tend not to seek help when subject to violence; cultural factors and inadequate information about available assistance and resources result in many cases of spousal abuse going unreported. In 2000 the Government established an interdepartmental Working Group on Sexual Violence to ensure coordination of efforts among various departments and authorities in handling the problem of sexual violence. In January the

Government established a Women's Commission to address women's concerns in a comprehensive and systematic manner. The Government also funds programs such as family life education counseling, a hot line service, temporary housing, legal aid, and child protective services; it also has initiated public education and media programs to promote public awareness and encourage early seeking of professional assistance.

The Hong Kong Federation of Women's Centres asked the Government to prepare a comprehensive services plan especially for women from the mainland, with counseling and job-training to help them integrate. The Society for Community Organisation estimated that tens of thousands of women, largely single women and widows from the mainland, regularly are subjected to the threat of violence, abuse, robbery, and sexual harassment by persons they live with. In November 2000, some 200 women, including sex workers, domestic helpers, and members of 12 women's groups, held an antiviolence-against-women rally, demanding greater government protection for women, more assistance to victims, and a special court to handle such cases in a bid to preserve a woman's dignity.

The general incidence of rape is low. There were 90 cases of rape reported to the police in 1998, 91 in 1999, 104 in 2000 and 54 in the first half of the year. However, underreporting is considered a serious problem. Amendments to the Evidence Ordinance and to the Crimes Ordinance abolished the requirement of corroboration of evidence of sexual offense. Proposed amendments to the Crimes Ordinance introduced to the Legislative Council (LegCo) in July and ending at year's end expressly would clarify that marital rape is a crime. Indecent assault cases reported to the police totaled 1,124 in 2000 and 534 in the first 6 months of the year.

Prostitution is not illegal. However, there are laws against activities such as causing or procuring another to be a prostitute, living on the prostitution of others, and keeping a vice establishment. Some women working in the sex industry have been trafficked to Hong Kong (see Section 6.f.).

Sexual harassment is a problem. EOC statistics reported 99 sexual harassment complaints during the year. Many women tend not to seek help when subjected to sexual harassment, and it is underreported. In 2000 Government and NGO surveys and statistics from a counseling hot line suggested that sexual harassment cases in fact totaled anywhere from 2 1/2 to 10 times more than the number reported.

Women face discrimination in employment, salary, welfare, inheritance, and promotion (see Section 6.e.). In May the UNCESCR urged the Hong Kong Government to enact legislation on equal pay for work of equal value. The EOC's task force on Equal Pay for Work of Equal Value announced in September its plan to commission a two-month study of government and Hospital Authority jobs to determine whether men and women are paid the same for performing similar tasks. The press carries occasional stories of women alleging discrimination in the workplace in connection with pregnancies. Official unemployment figures for the period from August through October were 6.3 percent for men and 4.1 percent for women. However, human rights organizations and unions assert that the statistics inaccurately record many unemployed women as housewives and that, in fact, the unemployment rate for women is actually higher than the unemployment rate for men.

Women are entering professional fields, including law and medicine, in greater numbers. In 2000, for the first time, more women than men entered the legal profession as solicitors (204 to 159) and medical school (170 to 165). Nonetheless, in the medical profession there are few women in prestigious specialties such as surgery, and female judicial officers and judges make up only 19.2 percent of the judiciary. Women hold 11 of the legislature's 60 seats. Women are disproportionately represented in the lower echelons of the work force, holding positions such as retail sales assistants and office clerks. In 2000 the Home Affairs Department organized the Working Group of Web-Enabling Women to help less educated women enter the digital workforce. As a result of revisions to inheritance statutes, the law treats men and women equally in inheritance matters, although women still face discrimination based on traditional practices (such as in the inheritance of small homes in rural areas of the New Territories). Alimony is another problem, with one 2000 survey indicating that 80 percent of divorced women fail to receive money regularly from their former husbands.

As a result of the 2000 EOC request for judicial review of the Education Department's allocation scheme for secondary school places (and in line with 1999 EOC and U.N. Human Rights Committee conclusions), the High Court ruled in June that the 23-year-old practice of separate ranking of boys and girls for secondary school admission purposes was discriminatory. To address the immediate problem of allocating school places in the fall, the Education Department established an interim appeal mechanism to review individual cases of alleged discrimination and agreed to come up with a new system by the end of the year. Hundreds of students, male and female, used the interim mechanism—many successfully—to appeal their school placement.

In January the Government established a Women's Commission to promote and protect the interests and well being of women. The Commission declared its intention to focus on provision of health services, childcare support, protecting women against violence, promotion of a women-friendly working environment and legal issues relating to women and the family. In May the UNCESCR expressed concern that the Commission might not have sufficient resources and powers to pursue its mission.

#### Children

The Government is committed firmly to children's rights and welfare through well-funded systems of public education, medical care, and protective services. The Education Department is committed to providing schooling for children between 6 and 15 years of age and provides placement services for non-Chinese speaking children. Education is free and compulsory through grade nine. The Government supports programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families.

Quality medical care is available to all children who are residents and is subsidized heavily.

In response to a recommendation by the Law Reform Commission, the government in November raised the age of criminal responsibility for children from 7 to 10 years. In 2000 there were 80 youths under the age of 16 who were incarcerated: 29 in prison, 19 in training centers, 27 in detention centers, and 5 in drug addiction treatment centers. One youth died in April 2000 during an attempted escape from a detention center.

Child abuse and exploitation are not widespread, but statistics indicate that they are increasing. There are no specific laws dealing with child pornography, but child pornography is covered under other antipornography laws. A proposed bill on Prevention of Child Pornography that the Government plans to introduce before the Legislative Council in 2002 would criminalize the making, production, distribution, publication, advertising, and possession of child pornography and prohibit the procurement of children for making pornography, extend the application of certain sexual offense provisions to acts committed against children outside of Hong Kong, and prohibit any arrangement or advertising relating to commission of those acts.

In the first 6 months of the year, child abuse cases newly registered with the Social Welfare Department totaled 295, a 16 percent increase over the same period in 2000: 57 percent involved physical abuse, 27 percent sexual abuse, and the rest were classified as gross negligence, multiple abuse or psychological abuse. Since April the Government has provided parent education programs to all 50 of the Department of Health's Maternal and Child Health Centers. The police have a child abuse investigation unit to improve the treatment of victims, and laws have been passed to make it easier for child victims to testify in court using an interviewing suite for recording statements. Legal penalties for mistreatment or neglect of minors also were increased substantially. A witness support program was launched that helps child witnesses in need. A child witness information kit in Chinese, with books explaining legal and court proceedings, also has been published to help reduce children's anxiety about testifying. A Child Care Center Law prevents unsuitable persons from providing child care services and facilitates the formation of mutual help child care groups.

#### Persons with Disabilities

Discrimination against the physically and mentally disabled persists in employment, education, and the provision of some public services. The Disability Nondiscrimination Law called for improved building access and sanctions against those who discriminate. The Buildings Ordinance as amended updated design requirements. However, despite inspections and occasional closure of noncompliant businesses, access to public buildings (including public schools) and transportation remains a serious problem for persons with disabilities. Advocates for persons with disabilities complained that limited access for persons with disabilities at polling stations made voting difficult because of accessibility problems. The Government has an integrated work extension program in sheltered workshops and expanded vocational assessment and training. No comprehensive statistics are available on the number of persons with disabilities in the work force, but a consortium of organizations representing persons with disabilities reported that about 700,000 residents are disabled, and about half are able to work. Government estimates based on household surveys indicated that in 2000 there were approximately 344,500 persons with disabilities in Hong Kong, including 270,000 with restricted body movement or difficulties with seeing, hearing or speech, and 74,500 with mental illness or autism. At year's end, there were 5,156 persons with disabilities employed as civil servants in a total civil service work force of 180,968—approximately 2.85 percent of all civil servants. During the first 10 months of the year, the Labor Department's Selective Placement Division found jobs for 2,098 of 3,600 disabled job seekers. Approximately 10,000 students in a school population of 960,000, about 1 percent, are disabled. Of these, 1,700 are in mainstream schools where they receive special education services, 244 of which were distributed among 40 schools employing the "whole-school" approach to integrated education.

In 1999 the Government formed the Guardianship Board under the Mental Health Ordinance to protect the interests of persons with mental disabilities or disorders, including dementia. In May the UNCESCR recommended that the Government undertake a comprehensive review of mental health policy and adopt effective measures to ensure that persons with mental illness enjoy the right to adequate and affordable health care. The Committee also noted its concern over the Government's "apparent lack of initiative" to undertake public education to combat discrimination against those with mental disabilities.

#### National/Racial/Ethnic Minorities

The Government continued to resist recommendations by human rights groups, various U.N. human rights committees, legislators, and others that it enact specific antirace discrimination legislation that would bind the private sector. In August, the U.N. Committee on the Elimination of Racial Discrimination expressed its concern about "the continuous absence of legal provisions protecting persons from racial discrimination to which they may be subjected by private persons, groups or organizations." The Committee rejected the Government's argument that such laws should not be initiated just because they might not be supported by society as a whole. In the face of growing criticism, the Government began to gauge public opinion on the need for antiracism legislation, but maintained its stance that better education on the subject, not new legislation, was the solution. A government "Code of Practice for Employers" designed to prevent discrimination states that race should not be considered when hiring employees. Minorities, who make up approximately 5 percent of the population, are well represented in the civil service and many professions. However, there are regular allegations of racial discrimination in such areas as private sector employment, admission to public restaurants, placement in public schools, treatment in public hospitals, apartment rentals, and acceptance to institutions of higher education. Foreign domestic workers, most of whom are from the Philippines and Indonesia, are particularly vulnerable to discrimination. An Indonesian Migrant Workers Union was established in 2000 to unite Indonesian domestic helpers throughout Asia and to protect members from abuse and exploitation. It serves the approximately 67,000 Indonesian domestic helpers who work in the SAR.

Similar organizations work for the interests of Philippine domestic helpers, of whom there are approximately 155,000. According to organizations representing migrant workers, police intimidation of migrant workers also is a problem.

## Section 6 Worker Rights

### a. The Right of Association

The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must be registered under the Trade Unions Ordinance. The basic precondition for registration is a minimum of seven persons who serve in the same occupation. The Government does not discourage or impede the formation of unions. In 2000, 18 unions (comprising 17 employee unions and one mixed organization of employees and employers) were registered under the Trade Unions Ordinance. Through the first 10 months of the year, 14 new unions (all employee unions) were registered. As of the end of October, the total number of registered trade unions was 649 (605 employee, 25 employer, and 19 mixed). Over 22 percent of the approximately 3.3 million salaried employees and wage earners belong to a labor organization. Trade unions are independent of political parties and the Government.

Work stoppages and strikes are permitted. However, there are some restrictions on this right for civil servants. During the year there was one strike, which resulted in 780 lost workdays. There were 5 strikes during 2000, which resulted in 934 lost workdays; in 1999 there were 3 strikes. Although there is no legislative prohibition of strikes, in practice, most workers must sign employment contracts that typically state that walking off the job is a breach of contract which can lead to summary dismissal.

The Employment Ordinance includes provisions that protect against antiunion discrimination. Violation of the antiunion discrimination provisions is a criminal offense with a maximum fine of \$12,800 (HK\$100,000). Employees who allege such discrimination have the right to have their cases heard by the Labor Relations Tribunal. The Tribunal may order reinstatement of the employee, subject to mutual consent of the employer and employee. If no such order is made, the Tribunal may award statutory entitlements (severance pay, etc.) and compensation. The maximum amount of compensation is \$20,000 (HK\$156,000). However, labor activists complain that complainants are discouraged by the Labor Relations Tribunal's tendency to push conciliation rather than issue orders. In 2000 the Labor Relations Division of the Labor Department handled 6 complaints of antiunion discrimination. During the first 10 months of the year, there were 5 such complaints. Owing to insufficient evidence or unwillingness of employees to act as prosecution witnesses, no prosecution action has been taken against the employers concerned.

The Basic Law commits the SAR to 40 International Labor Organization (ILO) conventions, and the Government has amended labor legislation and taken administrative measures to comply (see Section 6.b.).

The Employment and Labor Relations (Miscellaneous Amendments) Ordinance permits the cross-industry affiliation of labor union federations and confederations and allows free association with overseas trade unions (although notification of the Labor Department within 1 month of affiliation is required).

### b. The Right to Organize and Bargain Collectively

In June 1997, the prehandover Legislative Council passed three laws that greatly expanded the collective bargaining powers of workers, protected them from summary dismissal for union activity, and permitted union activity on company premises and time. The new ordinances would have enabled full implementation of ILO Conventions 87, 98, and 154. However, in October 1997, after consultation with the Labor Advisory Board, the Provisional Legislature repealed the Employee's Right to Representation, Consultation, and Collective Bargaining Ordinance and the Employment (Amendment) Ordinance, and amended the Trade Union (Amendment) Ordinance. The repeals removed the new legislation's statutory protection against summary dismissal for union activity; the Government argued that existing law already offered adequate protection against unfair dismissal arising from antiunion discrimination. In August, the U.N. Committee on Economic, Social and Cultural Rights expressed concern over the absence of protection against unfair dismissal.

The Employment and Labor Relations (Miscellaneous Amendments) Ordinance removed the legal stipulation of trade unions' right to engage employers in collective bargaining; bans the use of union funds for political purposes; requires the Chief Executive's approval before unions can contribute funds to any trade union outside of the SAR; and restricts the appointment of persons from outside the enterprise or sector to union executive committees. Because of this law, the Hong Kong Confederation of Trade Unions promptly filed a complaint against the Hong Kong Government for violation of ILO Conventions 87, 98, and 154. In November 1999, the ILO Committee on Freedom of Association concluded that the Employment and Labor Relations (Miscellaneous Amendments) Ordinance breached conventions 87 and 98 and recommended that the Government take legislative action to remedy the situation. The Government provided the ILO progress reports in May 1999 and January 2000 asserting that it was in compliance with all of the 40 ILO conventions that apply to Hong Kong. In January 1999, the Government blocked a legislator's attempt to introduce two bills on collective bargaining and antiunion discrimination on the grounds that they would affect government spending and operations and therefore fell outside the scope allowed for private member bills under the Basic Law. With the repeal of the short-lived collective bargaining legislation, the prehandover framework continued. There were no laws that stipulated collective bargaining on a mandatory basis. Wage rates in a few trades like tailoring and carpentry were determined collectively in accordance with established trade practices and customs rather than as a statutory mechanism. Collective bargaining is not practiced widely. Unions generally are not powerful enough to force management to engage in collective bargaining. The Government does not encourage it, since the Government itself does not engage in collective bargaining with civil servants' unions but merely "consults" with them.

The Labor Relations Division of the Department of Labor offers free, nonbinding conciliation services to employers and employees involved in disputes that may involve statutory benefits and protection in employment as well as arrears of wages, wages instead of notice, or severance pay. The Department of Labor takes a positive attitude towards the participation of trade unions in such dispute negotiations. In the first 10 months of the year, the Division handled 26,238 claims, 64 percent of which were handled through conciliation. These figures are roughly consistent with prior years. Depending on the size of the claim, the remaining cases were referred to the Labour Tribunal or the Minor Employment Claims Adjudication Board.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor; however, trafficking in persons for the purpose of prostitution reportedly occurs. There were credible reports that local, foreign, and mainland Chinese sex workers sometimes worked for organized criminals in exchange for protection or other assistance under conditions resembling indentured servitude (see Section 6.f.).

The law does not specifically prohibit forced or bonded labor by children; however, there were no reports that such practices occur.

#### Status of Child Labor Practices and Minimum Age for Employment

The Employment of Children Regulations prohibit employment of children under the age of 15 in any industrial establishment. Children 13 and 14 years of age may be employed in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum of 9 years' education and protecting their safety, health, and welfare. To enforce compliance with the regulations, the Labor Department conducts regular workplace inspections. In the first 10 months of the year, the Labor Department conducted 137,274 inspections, during which 6 violations of the Employment of Children Regulations were discovered. The Department issued three summonses, all of which resulted in convictions and fines. In 2000 the Labor Department conducted 161,454 inspections, during which 8 violations were discovered and 5 summonses issued, 3 of which resulted in convictions and fines. Work hours for young persons 15 to 17 years of age in the manufacturing sector remain limited to 8 hours per day and 48 hours per week between 6 a.m. and 11 p.m. Overtime is prohibited for all persons under the age of 18 in industrial establishments. Employment in dangerous trades is prohibited for youths, except for 16- and 17-year-old males.

While the law does not specifically prohibit forced or bonded labor by children, such practices are not known to occur (see Section 6.c.). ILO Convention 182 on the worst forms of child labor does not apply to Hong Kong.

#### e. Acceptable Conditions of Work

There is no statutory minimum wage except for foreign domestic workers. Aside from a small number of trades where a uniform wage structure exists, wage levels customarily are fixed by individual agreement between employer and employee and are determined by supply and demand. Some employers provide workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage generally provides a decent standard of living for a worker and family. Two-income households are the norm. In August the U.N. Committee on Economic, Social and Cultural Rights expressed concern over the lack of adequate regulation on statutory minimum wage, working hours, paid weekly rest, rest breaks and compulsory overtime.

The Factory Inspectorate Division has been restructured to strengthen its safety and health promotion and enforcement program. The division—part of a new occupational safety and health branch of the Labor Department—consists of four units: an operations division covering field services such as safety and health advice; a support services division responsible for technical support services; a planning and training division; and a legal services division charged with processing and conducting prosecutions.

The Factories and Industrial Undertakings Ordinance and its 27 sets of subsidiary regulations regulate safety and health conditions. In the first 9 months of the year, the Labor Department conducted 95,386 inspections of industrial and nonindustrial workplaces and issued 2,135 summonses (1,701 of which resulted in convictions with a total of \$2.8 million (HK\$22 million) in fines). In 2000 the Labor Department conducted 131,455 inspections and issued 3,719 summonses (3,455 of which resulted in convictions with a total of \$5.8 million (HK\$45.5 million) in fines). Worker safety and health has improved over the years, due in part to the transfer of many manufacturing jobs to factories in mainland China, but serious problems remain, particularly in the construction industry. In the first half of the year, there were 26,288 occupational accidents, of which 14,244 were classified as industrial accidents. Of the industrial accidents, 11 involved fatalities. In 2000 there were 58,092 occupational accidents, of which 33,652 were classified as industrial accidents, 43 of which involved fatalities. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

The minimum wage for foreign domestic workers is approximately \$470 (HK\$3,670) per month. The law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provide a decent standard of living. However, foreign domestic workers are subject to deportation if they are dismissed. They

are thus less likely to raise formal complaints, and there have been credible reports of their illegally being forced to accept less than the minimum wage and unacceptable living conditions. There also have been a number of cases of foreign domestic workers successfully taking their employers to court for mistreatment. The standard workweek is 48 hours, but many domestic workers work far longer hours.

#### f. Trafficking in Persons

There is no specific law prohibiting trafficking in persons; however, there are various laws and ordinances that allow law enforcement authorities to take action against traffickers. Trafficking in persons is a problem and Hong Kong is both a transit and a destination point for trafficked persons.

Hong Kong is a transit point for some persons trafficked from China and other nations to third countries, despite active efforts by the Government to stop such trafficking. Through October, authorities caught 2,556 persons with forged travel documents, as compared to 3,250 persons caught in all of 2000. The most common method used to attempt to traffic persons through Hong Kong employs forged or illegally obtained travel documents to move through the airport. On a much smaller scale, traffickers have attempted to smuggle persons in shipping containers. In September the Government uncovered a trafficking ring, and arrested 11 Hong Kong residents involved in a forgery operation that produced fraudulent passports. In late 2000, law enforcement authorities discovered a container on a ship bound for the United States that housed 12 mainland Chinese attempting illegal passage. The eight Hong Kong men arrested for setting up a local "shell company" to facilitate the operations were convicted and sentenced to jail terms ranging from 2 to 6 1/2 years.

A preliminary study released in February by a university researcher suggested that Hong Kong is a destination for women trafficked for the purpose of prostitution. According to the study, some of the women did not know before coming to Hong Kong that they would be pressured into serving as "escorts" for male customers of the bars where they were given jobs. Large numbers of mainland Chinese women also illegally engage in prostitution with the reported assistance of organized criminal groups. There were reports as well that criminal elements brought in small numbers of women from the former Soviet Union, Eastern Europe, and Colombia for the purpose of engaging in illegal prostitution.

The authorities seek to combat illegal prostitution by nonresidents through strict immigration controls and by arresting and prosecuting illegal prostitutes and their employers. In the first 9 months of the year, 982 nonresident women prostitutes and a much smaller number of their employers were arrested. Trafficking victims usually are deported, rather than formally charged.

Persons also are trafficked to the SAR for labor purposes, including domestic labor. Some foreign domestic workers, particularly from Indonesia, have been recruited abroad and brought to Hong Kong only to be placed in coercive working and living conditions. Organized criminal groups generally are behind the illicit activity and seek to profit from it through forced labor, debt bonded labor, or prostitution.

To combat fraudulent marriages that can be used to disguise trafficking in persons, immigration officials closely scrutinize applications for the entry of foreigners to take up residence with local spouses. In cases where the claimed relationship as husband and wife does not satisfy the immigration officer, applications are rejected. For example, Government figures from 2000 report that, of the 316 applications for Vietnamese women to join husbands in Hong Kong, 40 were rejected and another 28 applicants withdrew their applications.

Provisions in the Immigration Ordinance, the Crimes Ordinance, and other relevant laws enable law enforcement authorities to take action against trafficking in persons. The courts can impose heavy fines and prison sentences for up to 14 years for such activities as arranging passage of unauthorized entrants into Hong Kong, assisting unauthorized entrants to remain in Hong Kong, using or possessing a forged, false or unlawfully obtained travel document, and aiding and abetting any person to use such a document. The Security Bureau has policy responsibility for combating migrant trafficking and oversees the police, customs, and immigration departments, which are responsible for enforcing antitrafficking laws.

Legal aid is available to those who choose to pursue legal proceedings against an employer and immunity from prosecution is often made available to those who assist in the investigation and prosecution of traffickers. The Government does not provide funding to foreign or domestic NGO's for services to victims.

#### Macau

Macau, a 13 square mile enclave on the south China coast, reverted from Portuguese to Chinese administration on December 20, 1999 (the handover). As a Special Administrative Region (SAR) of the People's Republic of China, Macau enjoys a high degree of autonomy except in defense and foreign affairs, and its citizens have basic freedoms and enjoy legally protected rights. The Sino-Portuguese Joint Declaration (1987) and the Basic Law (the SAR's mini-constitution promulgated by China's National People's Congress (NPC) in March 1993) specify that Macau is to continue to enjoy substantial autonomy and that its economy and way of life are to remain unchanged for the first 50 years under PRC sovereignty. The Government is led by a Chief Executive, chosen by a 200-member Selection Committee, which was chosen by the Preparatory Committee (80 Macau and 40 mainland representatives appointed by the NPC). In September, voters elected 10 of the legislature's 27 members in direct elections in geographical constituencies. The remaining 10 were elected by interest groups in functional constituencies, and 7 were appointed by the Chief Executive. There are limits on the types of private member bills that may be tabled. After the handover, most of the laws in force continued to apply. The judiciary is independent.

The police force is under civilian control. After peaking in 1999, serious organized crime-related violence appears to have been curbed, and police report a marked reduction in violent crime. A People's Liberation Army (PLA) garrison of 800 soldiers stationed in Macau under the Garrison Law (Macau SAR) plays no role in internal security. Some members of the security forces committed human rights abuses.

The market-based economy is fueled by textile and garment exports, along with tourism and gambling; the population is approximately 450,000. The economy grew 4.6 percent in 2000, but growth slowed this year with the global economic downturn. Most citizens still enjoy a comparatively high standard of living. Per capita gross domestic product (GDP) is approximately \$14,600 (Macau Patacas 114,000).

The Government generally respects the human rights of its citizens; however, there were problems in some areas. These problems include occasional reports of police abuse; the limited ability of citizens to change their government; limits on the legislature's ability to initiate legislation; inadequate provision for persons with disabilities; a lack of legal protection for strikes and collective bargaining rights; and trafficking in women.

## RESPECT FOR HUMAN RIGHTS

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

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of arbitrary or unlawful deprivations of life committed by the Government or its agents.

Unlike in previous years, there were no suspicious deaths in custody.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and the Government generally respects these provisions in practice; however, there were reports of police brutality during the year. The Procurator's Office still is investigating allegations that in December 2000 a police officer beat a 14-year-old boy who was distributing leaflets regarding the 1989 Tiananmen massacre before the celebration of the anniversary of the handover (see Section 2.a.). Also in December 2000, a police or immigration officer allegedly beat one foreign Falun Gong practitioner. An official investigation into the incident did not substantiate allegations of police brutality, and the practitioner did not appeal the decision (see Section 2.b.).

Prison conditions meet international standards, but in the last few years the prison population has doubled to 700, one-third of them mainlanders. Facilities and personnel have failed to keep pace. In March 2000, the Secretary for Security announced plans to hold talks with mainland authorities on a prisoner transfer agreement, but no agreement had been reached by year's end.

The Government permits prison visits by human rights monitors. Since the 1999 closure of its Macau office, Amnesty International's Hong Kong office handles prison visit cases. Amnesty International reported no cases of abuses in prison during the year. Special arrangements were made during the year to allow prisoners to vote in the Legislative Assembly elections (see Section 3).

#### d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest, and detention, and the Government generally respects these provisions in practice. An examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. Police must present persons remanded in custody to an examining judge within 48 hours of detention. The accused person's counsel may examine the evidence. The law provides that cases must come to trial within 6 months of an indictment. The average length of pretrial incarceration is 3 months.

In August 2000, the Legislative Assembly unanimously passed a Commission against Corruption Act, which increased the investigative powers of Macau's independent graft-fighting organization. The Act also provided for the establishment of a monitoring body, appointed by the Chief Executive, to review public complaints against the Commission. The Commission received 393 complaints in 1999, and 978 complaints in 2000. During the year, there were no complaints against the Commission.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the Government generally respects this provision in practice. According to the Basic Law, the courts may have the power of final adjudication over all cases that are within the autonomy of the SAR. The courts also may rule on matters that are "the responsibility of the Central People's Government or concern the relationship between the central authorities and the (Special

Administrative) Region," but before making their final (i.e., nonappealable) judgment, the court must seek an interpretation of the relevant provisions from the Standing Committee of the Chinese National People's Congress. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions "shall follow the interpretation of the Standing Committee." The Standing Committee of the NPC must consult its Committee for the Basic Law of the Special Administrative Region before giving an interpretation of the law. This Committee is composed of 10 members, 5 from the SAR and 5 from the mainland. The Chief Executive, the President of the Legislative Assembly, and the President of the Court of Final Appeal nominate the SAR members. The need to translate laws and judgments from Portuguese and a severe shortage of local bilingual lawyers (of the 94 lawyers in private practice, approximately 10 can read and write Chinese) and magistrates may hamper development of the legal system. However, the Government has instituted a rigorous postgraduate training program for magistrates who received legal training outside of the SAR. The judiciary is relatively inexperienced (the first law school opened in the early 1990's), and the lack of locally trained lawyers is a serious impediment to preservation of an independent judiciary and the overall development of the legal system.

According to the Basic Law, the Chief Executive appoints judges at all levels, acting on the recommendation of an "independent commission" (which he appoints) composed of local judges, lawyers, and "eminent persons." The Basic Law stipulates that judges must be chosen on the basis of their professional qualifications. According to the law, judges may be removed only for criminal acts or an inability to discharge their functions. Except for the Chief Justice, who must be a Chinese citizen with no right of abode elsewhere, judges may be foreigners. Of the 23 judges, 4 are Portuguese.

There are four courts: the Primary Court (with general jurisdiction at first instance); the Administrative Court (with jurisdiction of first instance in administrative disputes); the Court of Second Instance; and the Court of Final Appeal.

The law provides for the right to a fair trial, and the judiciary generally enforces this right. Trials are open to the public. The Criminal Procedure Code provides for an accused person's right to be present during proceedings and to choose an attorney or request that one be provided at government expense. The 1997 Organized Crime Ordinance provides that "certain procedural acts may be held without publicity and that witness statements read in court are admissible as evidence." There also are additional restrictions on the granting of bail and suspended sentences in organized crime cases. A trial may be held in the judge's chambers on grounds that publicity could cause great harm to the dignity of the persons, to public morals, or to the normal development of the trial. Such a decision is to be revoked if those motives cease to exist. However, the verdict always is delivered in public.

The judiciary provides citizens with a fair and efficient judicial process, although the average waiting period between the filing of a civil case and its scheduled hearing is 12 months. Laws issued between 1976 and 1991 have been translated into Chinese. Since 1991 all legislation has been issued simultaneously in Chinese and Portuguese.

The Chief Procurator enjoys substantial autonomy from both the executive and the judiciary. The Basic Law stipulates that his functions must be carried out without any interference.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the Government generally respects these prohibitions in practice. Official intrusions into these spheres must be done in accordance with the law, which requires a judge's authorization or order. Any evidence obtained by means of wrongful interference in private life, home, correspondence, or telecommunications without the consent of the concerned person may not be used in court.

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

#### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the Government generally respects these rights in practice. Local law also protects citizens' right to petition the Government and the legislature. However, in a December 2000 speech given in the SAR, Chinese President Jiang Zemin warned residents of Macau not to use their freedoms to oppose the State, and admonished the press to remember its social responsibilities.

The Procurator's Office is investigating allegations that in 2000 a police officer beat a 14-year-old boy distributing leaflets on the 1989 Tiananmen Massacre in the period before the celebration of the anniversary of the handover (see Section 1.c.).

The print media include eight Chinese-language dailies, two Portuguese-language dailies, and seven weeklies. There are three television networks. Macau Radio broadcasts in both Portuguese and Chinese (Cantonese and Mandarin). Hong Kong and international newspapers are freely available. In October 2000, the Government initiated a 2-year plan to subsidize local print media to enable them to compete better with the increased availability of Hong Kong newspapers. The dominant newspapers have a pro-China orientation. Critics charge that they do not give equal attention to liberal and prodemocracy voices. The reversion to Chinese administration apparently has not, so far, affected press freedom. Government officials claim that the local press has grown more aggressive about demanding accountability from public officials since the

handover.

According to Falun Gong practitioners, the group's materials, available for sale in two local stores before Falun Gong was banned on the mainland in October 1999, were removed from the shelves by store management. However, the Government has not taken action to limit their availability (see Section 2.c.). In November a scuffle broke out when three uniformed police officers tried to confiscate leaflets that the Falun Gong adherents were distributing opposite a prominent tourist site. The incident ended peacefully when a plainclothes police officer told the Falun Gong adherents to leave. No arrests were made (see Section 2.c.).

Article 23 of the Basic Law obliges the SAR to enact laws that "forbid any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets." Human rights groups are concerned that these and other provisions of Article 23 may restrict fundamental rights and freedoms. They are particularly concerned because the Penal Code does not specify sentences for such crimes, and a legal vacuum was created when a Portuguese law dealing with crimes against state security became null and void after the handover. The process of developing this legislation continues with no indication of when such laws may be enacted.

There are no government imposed limits on Internet access.

The Government respects academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government generally respects this right in practice. Under local law, individuals and groups intending to hold peaceful meetings or demonstrations in public places are required to notify the president of the relevant municipal council in writing at least 3 days but no more than 2 weeks in advance of the event; however, no prior authorization is necessary for the event to take place. Local law also provides criminal penalties for government officials who unlawfully impede or attempt to impede the right of assembly and for counter-demonstrators who interfere in meetings or demonstrations. Local Falun Gong supporters generally are allowed to exercise and demonstrate without interference.

Falun Gong practitioners continue their daily exercises in public parks; however, police photographed practitioners and occasionally checked their identification documents. Some practitioners were taken to the police station and made to wait a few hours while police check their documents (see Section 2.c.). As in the past, the Government has observed that the law gives residents the right to assemble and demonstrate, but not nonresident foreigners (see Section 2.d.). Prodemocracy and Falun Gong activists state that they have traveled to Macau without interference at other times.

In May approximately 400 workers joined a protest march led by the prodemocracy Macau Workers' Union, which organized a group of workers to prevent scuffles and violence. The march ended peacefully (see Section 6.a.).

The law provides for freedom of association and the Government generally respects this right in practice. The law neither provides for nor prohibits establishment of political parties. Under the Societies Ordinance, however, persons can establish "political organizations," of which a few exist, including the prodemocracy New Democratic Macau Society, headed by a prodemocracy legislator. Both civic associations and candidates' committees may present candidates in the elections by direct or indirect suffrage (see Section 3). Article 23 of the Basic Law, however, obliges the Macau SAR to enact laws that "prohibit foreign political organizations or bodies of the region from establishing ties with domestic political organizations or bodies." The Government has not yet enacted any legislation on Article 23. One international human rights organization expressed concern that legislation on combating organized crime could be used to curb freedom of association. That, however, has not occurred.

#### c. Freedom of Religion

The Basic Law--the mini-constitution--provides for freedom of conscience, freedom of religious belief, and freedom to preach and to conduct and participate in religious activities. The Freedom of Religion Ordinance, which continued to apply after the handover, provides for freedom of religion, privacy of religious belief, freedom of religious assembly, freedom to hold religious processions, and freedom of religious education. The Macau SAR Government generally respects these rights in practice, although there was at least one exception. There is no state religion.

The Religious Freedom Ordinance requires the registration of religious organizations. This is handled by the Identification Services Office. There have been no reports of discrimination in the registration process.

Practitioners of Falun Gong (a spiritual movement that does not consider itself a religion) have not applied for registration because a local lawyer advised them that their application for registration would not be approved since the Falun Gong was banned in mainland China in October 1999. However, the Identification Services Office has not issued any instructions regarding the Falun Gong, and senior SAR Government officials have reaffirmed that practitioners of Falun Gong may continue their legal activities without government interference.

Falun Gong practitioners continued their daily exercises in public parks; however, they were subjected to periodic harassment by the police. Police photographed practitioners and occasionally checked their identification documents. On at least one occasion, the police took a practitioner to the police station to check

his documents rather than conducting the check on site (see Section 2.b.).

In December 2000, during celebrations of the anniversary of the handover, the Government allowed local Falun Gong practitioners to demonstrate in a park about a mile from the official ceremonies (see Section 2.b.). However, the authorities detained and turned back prodemocracy activists and Falun Gong practitioners who tried to enter the SAR during the anniversary period.

Nonresident foreigners do not have the right to assemble and demonstrate. In 2000 a police or immigration officer allegedly beat one foreign practitioner. A government investigation into the incident rejected allegations of police brutality, and the practitioner did not appeal the results.

Religious bodies can apply to use electronic media to preach. The ordinance also stipulates that religious groups may maintain and develop relations with religious groups abroad and provides for freedom of religious education.

Missionaries are free to conduct missionary activities and are active in the enclave. More than 30,000 children are enrolled in Catholic schools, and a large number of influential non-Christians have had a Christian education.

According to Falun Gong practitioners, the group's materials, available for sale in two local stores before Falun Gong was banned on the mainland in July 1999, were removed from the shelves by store management. However, the Government has taken no action to limit their availability (see Section 2.a.).

The Catholic Church recognizes the Pope as the head of the Church. In April the Holy See appointed a coadjutor Bishop for the Macau diocese. Editorials in the local Catholic newspaper noted this as an example of the SAR's Government's independence and respect for religious freedom as provided for in the Basic Law.

#### d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government generally respects them in practice. In April a female Falun Gong practitioner from Hong Kong was barred from entering Macau despite statements by the Chief Executive that there was no political blacklist of persons from Hong Kong. The police admit that they keep a list of unwelcome persons who have criminal records and persons whom they believe have criminal intentions. In December 2000, the Government detained and turned back prodemocracy activists and Falun Gong practitioners who tried to enter the SAR during the period observing the anniversary of the handover (see Section 2.c.). A Security Bureau spokesman stated that they were not admitted because it was suspected that they intended to carry out unlawful demonstrations, and that the law gives residents the right to assemble and demonstrate, but it does not give nonresidents that right (see Section 2.b.). Foreign Falun Gong and democracy activists have traveled to Macau at other times without incident.

The law provides for the granting of asylum and refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees in assisting refugees before the handover; however, since the handover, there have been no refugee cases. The law makes no provision for first asylum. There were no reports of refugees being forced to return to a country where they feared persecution.

The Government has assisted in the resettlement of Vietnamese who fled their country by boat. Only seven Vietnamese refugees remain in the SAR. No Vietnamese refugees were repatriated in 1997 or 1998, the last period for which statistics were available. The Macau SAR returns an average of 444 illegal Chinese migrants to China each month.

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

Citizens' ability to change their government is significantly restricted. The Government is led by a Chief Executive, chosen by a 200-member Selection Committee, which was chosen by the Preparatory Committee (60 Macau and 40 mainland representatives appointed by the NPC of the People's Republic of China). The 27-member Legislative Assembly elected in September is composed of 10 members elected in direct elections; 10 indirectly elected by local community interests such as business, labor, professional, welfare, cultural, educational and sports associations; and 7 appointed by the Chief Executive. Prior to the September elections, the Legislative Assembly was composed of 8 members elected directly, 12 elected indirectly, and 7 that were appointed. Elections are held every 4 years and the number of legislators is to increase gradually in subsequent elections. In 2005 the number of directly elected seats is to be increased to 12 (with 8 elected indirectly and 7 appointed). After 2009 the rules on the Assembly's composition may be altered by a two-thirds majority of the total membership and with the approval of the Chief Executive, who has veto power. The Basic Law does not provide for universal suffrage, or for direct election of either the legislature or the Chief Executive. Special arrangements were made during the year to allow prisoners to vote (see Section 1.c.).

There are limits on the types of legislation that legislators may introduce. Article 75 of the Basic Law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the Government. Bills relating to government policies must receive the written approval of the Chief Executive before they are submitted.

A 10-member Executive Council appointed by the Chief Executive (which is filled by five legislators and five policy secretaries) functions as an unofficial cabinet, approving all draft legislation before it is tabled in the

Legislative Assembly. Local government representatives elected by direct, universal, secret ballot have responsibility for public sanitation and cultural activities.

The Legislative Assembly approved a bill in November that is to transform the SAR's two provisional municipal councils into a new public body in January 2002. Under the existing arrangement, a total of eight directly elected members sit on the two councils. The councils are responsible for culture, recreation and public sanitation functions. Under the new system, the councils are to be merged into a single public body, called the Institute for Civic and Municipal Affairs, with all of its members appointed by the Chief Executive. The Basic Law states that "municipal organizations are not organs of political power."

The percentage of women in government and politics does not correspond to their percentage of the population; however, they hold a number of senior positions throughout the Government. Five of the 27 Legislative Assembly members (3 directly elected, 1 indirectly elected, and 1 appointed), including the President of the Assembly, are women.

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

Domestic human rights groups in general operate without government restriction, investigating and publishing their findings on human rights. Local human rights groups, such as the Macau Association for the Rights of Laborers, and the New Democratic Macau Association, continued to operate. Amnesty International (Macau Section) ceased to exist after the December 1999 handover.

International human rights agreements that formerly were applicable to Macau were approved by the Sino-Portuguese Joint Liaison Group and continue to apply to the SAR. In addition the International Covenant on Civil and Political Rights is subsumed in the Basic Law. In August Macau submitted the first report ever presented on the application in Macau of the International Convention on the Elimination of all Forms of Racial Discrimination, which reaffirmed the Government's commitment to comply with the convention.

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

The Basic Law stipulates that residents shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political persuasion, ideological belief, educational level, economic status, or social condition. In addition, many local laws carry specific prohibitions against discrimination. For example, under the law that establishes the general framework for the educational system, access to education is stipulated for all residents regardless of race, religious belief, or political or ideological convictions.

#### Women

Reported cases of domestic violence against women are not common. For cases that are reported, the Government enforces criminal statutes prohibiting domestic violence and prosecutes violators. However, police and court statistics do not distinguish between spousal abuse and other assault cases. If hospital treatment is required, a medical social worker counsels the victim and informs her about social welfare services. Until their complaints are resolved, victims of domestic violence may be provided public housing, but no facilities are reserved expressly for them.

There are private and religious groups that sponsor programs for victims of domestic violence. The Government supports and helps to fund these organizations and programs. The government-created Bureau for Family Action was created as a subordinate body of the Department of Family and Community of the Social Welfare Institute. Its aim is to support families with problems or at risk with the help of a team of specialized staff (social workers, psychologists, legal advisors, etc.). One of the most serious problems detected by this Bureau is domestic violence. The Bureau helps women who have been victims of domestic violence, providing not only a safe place for them and their children, but also advice regarding legal actions against the perpetrators. A special family counseling hot line receives an average of 13.5 calls per month. Two government-supported religious programs also offer rehabilitation programs for women who have been victims of violence.

The law on rape covers spousal rape. The number of reported rapes was 38 at year's end; there were 48 rapes reported in 2000.

Prostitution is legal, but procuring is not. Trafficking in women is a problem (see Section 6.f.).

There is no law specifically addressing sexual harassment, although there is a law prohibiting harassment in general.

Women are becoming more active and visible in business. The Government estimates that women account for 48 percent of the work force. Equal opportunity legislation that is applicable to all public and private organizations mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. However, there is wage discrimination in some sectors, notably construction. The equal opportunity legislation may be enforced by civil suits, but no cases alleging discrimination have been brought to court.

#### Children

The Government is committed to protecting the rights and welfare of children; however, it has not promulgated any statutes specifically to protect the rights of children, instead relying on the general framework of civil and political rights legislation to protect all citizens. For example, the Criminal Code provides for criminal punishment for sexual abuse of children and students, statutory rape, and procuring involving minors.

School attendance is not compulsory; however, the vast majority of residents' children attend school. Basic education is provided in government-run schools and subsidized private schools, and covers the preprimary year, primary education, and general secondary school education. The Education Department provides assistance to families of those children that cannot pay school fees. The children of illegal immigrants are excluded from the educational system (see Section 6.d.). The Government provides free medical care for all children. Child abuse and exploitation are not widespread problems, although the number of reported cases have increased. Only two cases were reported during the years 1998 and 1999. In 2000, 26 cases of child abuse, and 7 cases of spousal and child abuse were reported. Nineteen cases of child abuse and 2 cases of spousal and child abuse were reported during the year.

#### Persons with Disabilities

The extent to which physically disabled persons experience discrimination in employment, education, and provision of state services is not known fully. A government study published in October 1999 estimated that there were 4,354 persons with physical and/or mental disabilities in the SAR. The same study noted that "the belief still persists among the Chinese community that having a handicapped child is a form of punishment for past deeds, and this leads families to hide the handicapped child from society."

The Social Welfare Institute offers financial and rehabilitation assistance to persons with disabilities and is helping to fund an employment center. A few other special programs exist, aimed at helping the physically and mentally disabled gain better access to employment, education, and public facilities. Laws do not mandate building access for persons with disabilities. More than two-thirds of the funding for services for persons with disabilities comes from government subsidies. The Government almost totally subsidizes 5 group homes, 14 rehabilitation centers, and 7 other charitable institutions serving persons with disabilities. Ten schools have programs for persons with disabilities, providing special education programs for approximately 467 students.

#### National/Racial/Ethnic Minorities

Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise roughly 9 percent of the population) are respected. Although Portuguese officials no longer dominate the civil service, the governmental and legal systems place a premium on knowledge of the Portuguese language, which is spoken by less than 4 percent of the population. The Chinese language received official status in 1993, and the use of Chinese in the civil service is growing.

#### Section 6 Worker Rights

##### a. The Right of Association

The Government neither impedes the formation of trade unions nor discriminates against union members. The Basic Law stipulates that international labor conventions that applied to Macau before the handover shall remain in force and are to be implemented through the laws of the SAR, and the Government enforces these laws in practice. However, human rights groups are concerned that local law does not have explicit provisions against antiunion discrimination.

The interests of the PRC heavily influence local trade union activities, including the selection of union leadership. Unions tend to stress the importance of stability and minimum disruption of the work force. Nearly all of the private sector union members belong to the pro-China Federation of Trade Unions. Many local observers claim that this organization is more interested in furthering the Chinese political agenda than in addressing trade union issues such as wages, benefits, and working conditions. A few private sector unions and two of the four public sector unions are not under Chinese control. All classes of workers have the right to join a union.

Labor leaders complain that there is no effective protection in local law from retribution should they exercise their right to strike. The Government argues that labor law provisions that require an employer to have "justified cause" to dismiss an employee protect striking employees from retaliation, and the Government enforces these provisions in practice. There were no work stoppages or strikes during the year.

Unions may freely form federations and affiliate with international bodies. During the year, seven independent industrial (sector-wide) unions were registered. Three civil service unions—representing Portuguese, Macanese, and Chinese employees—are affiliated with the major non-Communist Portuguese union confederation, the Macau Sempre (Roots in Macau).

##### b. The Right to Organize and Bargain Collectively

The Government does not impede or discourage collective bargaining, but there is no specific statutory protection for this right, since Portuguese laws that protected collective bargaining no longer apply, and wages

are determined by market forces. Unions tend to resemble local traditional neighborhood associations, promoting social and cultural activities rather than issues relating to the workplace. Moreover, local customs normally favor employment without the benefit of written labor contracts, except in the case of migrant labor from China and the Philippines. Chinese unions traditionally have not attempted to engage in collective bargaining.

Workers who believe that they have been dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the High Commissioner against Corruption and Administrative Illegality, who also functions as an ombudsman. There were no complaints regarding unlawful dismissal lodged with the Labor Department or the Commission Against Corruption during the year.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and there were no reports that such practices occurred; however, there were cases of trafficking in women (see Section 6.f.).

The Government does not prohibit forced and bonded labor by children and there were no reports that such practices occur, although children are covered under laws prohibiting forced or bonded labor.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an "exceptional basis." Some children reportedly work in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but ILO conventions are applied. The Labor Department enforces the law through periodic and targeted inspections and violators are prosecuted. The incidence of child labor is very low and has declined significantly since effective enforcement began in 1985. The Labor Department Inspectorate does not conduct inspections specifically aimed at enforcing child labor laws, but issues summonses when such violations are discovered in the course of other workplace inspections. No instances of child labor were reported during the year.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

The Government does not prohibit forced and bonded labor by children and there were no reports that such practices occur, although children are covered under laws prohibiting forced or bonded labor.

#### e. Acceptable Conditions of Work

Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements, but there is no mandatory minimum wage. Average wages generally provide a decent standard of living for a worker and family. In the absence of any statutory minimum wage or publicly administered social security programs, some large companies provide private welfare and security packages.

Labor legislation provides for a 48-hour workweek, an 8-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every 7 days of work, worker representatives report that workers frequently agree to work overtime to compensate for low wages. The Department of Labor provides assistance and legal advice to workers on request, but the Government's enforcement of labor laws is lax.

The Department of Labor enforces occupational safety and health regulations. Failure to correct infractions can lead to prosecution. In 2000 the Labor Department Inspectorate carried out 928 inspections and uncovered 26 violations carrying fines worth a total of \$8,000 (MP 64,000). There were six work-related death cases in 2000, and four cases reported during the year. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees' right to continued employment if they refuse to work under dangerous conditions.

Migrant workers, primarily from China, make up approximately 12 percent of the work force. These workers often work for less than half of the wages paid to a local resident performing the same job, live in controlled dormitories, work 10 to 12 hours per day, and owe large sums of money to the labor-importing company for the purchase of their jobs. The U.N. Human Rights Committee noted the lack of protective measures for working conditions, and the absence of social security programs for nonresident workers as problems of concern. Labor interests claim that the high percentage of foreign labor erodes the bargaining power of local residents to improve working conditions and increase wages. Citizen workers demonstrated against the importation of foreign laborers several times during the year.

In 2000 due to the economic downturn and rising unemployment, the government instituted a policy to reduce the amount of foreign labor in order to give job priority to local residents. In an incident in November, approximately 40 workers from mainland China were detained after a standoff with their employer over compensation and abrupt dismissal. Some of the workers were deported before a judicial decision could be made on their labor-related claims. In another case, after dozens of foreign workers suddenly were laid off by a garment manufacturer, they petitioned the Government over being paid a fraction of their wages. In response,

the Government's Labor and Employment Affairs Bureau took action to mediate the pay dispute. The Government claimed that since the workers' contracts had expired, their removal was lawful. However, a Labor and Employment Affairs Bureau official told the press that the dismissal of the workers was "unreasonable" and that the workers' demands were fair.

#### f. Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in women for the purpose of prostitution continues to occur. The country is a transit point and destination for trafficking in illegal aliens and women for the purpose of prostitution, although there is no reliable information to define the number of persons involved. There have been credible reports that women from Vietnam are trafficked into Macau as mail-order brides, with the assistance of organizations purporting to be travel agencies, international labor organizations, or marriage mediating services. Women from Malaysia, who usually are ethnic Chinese, also reportedly have been trafficked into Macau; law enforcement authorities in Malaysia believe that the women are trafficked by Chinese criminal syndicates. In some cases, trafficking victims from Malaysia are lured by promises of well-paying jobs and then are forced to work as prostitutes. There have been no reported cases of trafficking of female residents of Macau to other countries (see Sections 5 and 6.c.).

There is no separate law on trafficking in persons. Trafficking in persons is a crime established and punished under Article 7 of the Law on Organized Crime. The penalty for the crime of trafficking in persons is imprisonment for 2 to 8 years. This penalty is increased by one-third (within minimum and maximum limits) if the victim is under the age of 18 years. If the victim is under 14 years old, the penalty is imprisonment for 5 to 15 years. In a case where the victim is raped by the trafficker, even though the rape and trafficking are connected, they are treated as two different crimes.

In 1999 2 Vietnamese women were prosecuted in Vietnam for trafficking 15 Vietnamese women to Macau for the purpose of prostitution. Also in 1999, the Korean press reported that a Korean man was arrested on charges of forcing 40 Korean women, recruited as waitresses, into prostitution in Macau.

There are no government assistance programs in place for victims of trafficking.

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