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Kenya

Country Reports on Human Rights Practices - 2001

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Kenya is a republic dominated by a strong presidency. President Daniel Arap Moi, who has led the ruling Kenya African National Union (KANU) and served as President since 1978, was reelected most recently in 1997 in the country's second general election since the restoration of multiparty politics in 1991. Since independence in 1963, no president ever has left because of an electoral loss, and KANU has controlled both the presidency and the national legislature continuously, although other parties were illegal only from 1982 to 1991. KANU won a majority of the popular vote and a narrow majority of parliamentary seats in the 1997 general elections. While there were numerous flaws in the 1997 elections, observers concluded that the vote broadly reflected the popular will. In June President Moi appointed National Development Party (NDP) leader Raila Odinga and three other NDP Members of Parliament (M.P.'s) to his cabinet. KANU and NDP have formed an alliance and are contemplating a full merger. At year's end, KANU and NDP members held 139 of 222 seats in the unicameral National Assembly. In addition to his role as President, Moi is the commander in chief of the armed forces, and he controls the security, university, civil service, judiciary, and provincial, district, and local governance systems. The judiciary suffers from corruption and is subject to executive branch influence.

In addition to the armed forces, there is a large internal security apparatus that includes the police's Criminal Investigation Department (CID), the National Security Intelligence Service (NSIS), the National Police, the Administration Police, and the paramilitary General Services Unit (GSU), which details members on a rotating basis to staff the 700-person Presidential Escort. The CID investigates criminal activity and the NSIS collects intelligence and monitors persons whom the State considers subversive. In 1999 in an effort to improve the accountability of investigative services, Parliament passed and implemented laws that removed arrest authority from the NSIS and separated the organization from the CID. While civilian authorities generally maintain effective control of the security forces, there were some instances in which the security forces acted independently of government authority. Members of the security forces, especially the police, continued to commit numerous, serious human rights abuses.

The large agricultural sector provides food for local consumption, substantial exports of tea, coffee, cut flowers, and vegetables, and more than 70 percent of total employment for the country's population of approximately 29 million. Estimates for the unemployment rate range from the official 25 percent to more than 50 percent. Although many sectors continued to be dominated by state-owned monopolies, the nonfarm economy includes large privately owned light manufacturing, commercial, and financial sectors. Tourism was the third largest source of foreign exchange earnings after tea and other agricultural exports. Major international financial institutions continued their suspension of financial assistance following a 2000 court ruling that the Kenya Anti-Corruption Authority's investigatory and prosecutorial powers were unconstitutional, and the cancellation of other anti-corruption measures. During the year, annual per capita gross domestic product declined in real terms to approximately \$271 (21,200 shillings). The spread of HIV/AIDS, which was estimated to have infected approximately 14 percent of the population between the ages of 14 and 49, as well as drought and famine in some rural areas during the year, exacerbated economic problems.

The Government's human rights record remained poor, and it continued to commit numerous, serious abuses. Citizens' ability to change their government peacefully has not yet been demonstrated fully. Security forces, particularly the police, continued to commit extrajudicial killings, torture and beat detainees, use excessive force, rape, and otherwise abuse persons. Prison conditions remained life threatening. Police harassed and arbitrarily arrested and detained persons, including journalists, politicians, and political activists. The Government arrested and prosecuted a number of police officers for abuses; however, most police who committed abuses were neither investigated nor punished. Lengthy pretrial detention is a problem, and the judiciary is subject to executive branch influence. The authorities infringed on citizens' privacy rights. The Government limited freedom of speech and of the press, and harassed, intimidated, and economically pressured newspapers that often were critical of the Government; however, in recent years the Government continued to reduce its domination of the domestic broadcast media. The Government repeatedly restricted freedom of assembly, and the police disrupted public meetings and used force to disperse demonstrators and protesters. The Government restricted freedom of association. The Government continued to limit the independence of its Standing Committee on Human Rights (SCHR), and the President continued to criticize nongovernmental human rights organizations (NGO's) for their alleged involvement in partisan politics. Violence and discrimination against women and abuse of children remained serious problems. Female genital mutilation (FGM) remained widespread, child prostitution remained a problem, and the spread of HIV/AIDS created many orphans. There was some discrimination against persons with disabilities. The Government continued to exacerbate ethnic tensions by discriminating against many ethnic groups; interethnic tensions continued and resulted in numerous violent conflicts and some deaths. There continued to be reports of ritual murders associated with aspects of traditional indigenous religious rites. The Government continued to limit

some worker rights. Child labor remained a problem, and there were instances of forced child labor. Violence by mobs and by nongovernmental armed groups also resulted in many deaths.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including

Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

Security forces, especially members of the police, the GSU, and the CID, continued to use lethal force and committed a number of extrajudicial killings. According to government figures, police killed 137 suspected criminals, and another 31 suspects and detainees died while in police custody during the year. The Kenyan Human Rights Commission (KHRC), a domestic NGO, reported that police killed 251 persons during the year (compared with 198 persons in 2000), including 49 by torture (see Section 1.c.). However, People Against Torture (PAT) reported 70 cases of death by torture and still was documenting cases at year's end (see Section 1.c.). Police often were not restrained in the use of lethal force, especially when confronting armed criminal suspects, and the Government generally failed to take appropriate action against members of the security forces accused of unlawful or arbitrary killings.

According to a human rights organization, Muslims for Human Rights (MUHURI), on January 18 in Mombasa, police allegedly tortured, shot, and killed Abdillahi Mohamed Mashuhuri after raiding his home (see Sections 1.c., 1.d., and 1.f.). MUHURI has demanded the arrest of the officers involved; a government investigation into the death of Mashuhuri was ongoing at year's end.

On February 17, police shot and killed Allan Mbiti, a 22-year-old student at the University of Nairobi and the son of a prominent judge, as he was walking back to his campus at night. An autopsy revealed that Mbiti was shot twice from behind, which contradicted police accounts of the incident. The police claimed that Mbiti had approached three plain-clothes officers with a "simi" (a machete) and that the officers shot Mbiti only after he did not heed their order to stop. The three officers involved in the killing were arrested, and the President personally promised justice. On December 23, one of the three officers was sentenced to 10 years in prison; the other two officers remained in detention pending trial at year's end. Human rights organizations condemned the killing and applauded the swift action against the offenders; however, they also criticized the Government's inaction on numerous other cases.

On March 25, administration police (AP's) guarding the home of the Minister for Rural Development shot and killed Francis Kiraha Kibugi, a prominent Nairobi businessman, following a traffic accident and an argument between Kibugi and a taxi driver. The officers reportedly jumped the fence of the compound they were guarding and fired five shots, killing Kibugi and injuring the taxi driver. The two officers later were arrested, and the hearing was ongoing at year's end.

On March 30, four armed men carjacked Geoffrey Ngoima Mbugua, a minister at the Presbyterian Church of East Africa's (PCEA) Thika parish and a lecturer at St. Paul's Theological Seminary (see Section 2.c.). Police officers pursued the vehicle; when the armed men began shooting at the police, the police shot back, killing Mbugua; the perpetrators escaped. No investigation into the case had occurred by year's end, and it is unlikely that an investigation will be undertaken; the killing was considered to have taken place while the officers were discharging their duties, and it does not appear that the crime was religiously motivated.

On July 25, police from a special response squad shot and killed seven suspected bank robbers who were traveling by bus on the main highway leading into Nairobi. Police officers allegedly stopped the bus and ordered all of the passengers out of it. Several witnesses reported that the officers then identified the suspected criminals, frisked and disarmed them, ordered them to lie face down on the ground, and shot them. The life of an eighth suspected criminal, a GSU policeman, reportedly was spared following pleas from his pregnant wife; however, police arrested and reportedly beat him. Police claimed the seven victims were killed during a shoot-out after they drew their weapons and shot at the police officers trying to arrest them. The Government has not charged the police officers with any offense; however, it has ordered an investigation after public protest over the killings. No arrests were made by year's end.

On July 29, security officers shot and killed a primary school teacher during a fight between Kisii and Maasai youths (see Section 5). No action was taken against the officers by year's end. Some Kisii leaders claim the security forces target the Kisii community for failing to elect a KANU candidate in a parliamentary by-election in January (see Sections 3 and 5).

In 2000 after numerous deadly attacks on police, Marsden Madoka, Minister of State in the Office of the President, stated that police should use lethal force to eliminate criminals from the streets. The Minister's comments reflect a growing concern that security forces often are not armed or equipped sufficiently. In responding to continuing high levels of crime, some police used excessive force. Police claim that the increased use of sophisticated weapons by criminals has increased the risks faced by police in discharging their duties.

The KHRC reported there were incidents in which police killed bystanders while exchanging gunfire with criminals; however, further information and specific examples were not available at year's end.

Some official efforts have been made to punish police abuses. In March 2000, a police officer in Meru reportedly killed Wallace Kiogora; the officer was arrested. A subsequent public inquest into Kiogora's death was held, and the court ruled that no one was to blame for the death. In March 2000, Philip Kopkoech Kirui died after he allegedly had been tortured. Five police officers based at the Londiani Police Station were charged with Kirui's killing, and the case was pending in the courts at year's end. In January 2000, authorities arrested two police officers who allegedly beat Joseph Ndung'u Nyoike; the 10-year-old boy died after spending the night in prison. The court dropped murder charges against one of the officers for lack of evidence; the other officer committed suicide in October 2000. In August 1999, police killed five Muslim worshippers in the Anas Bin Malik Mosque in Chai village, near Mombasa. Within 1 month of the killings, the Government charged two police officers; one of the officers later escaped, and the case against the other officer was pending before the Senior Resident Magistrate in Mombasa at year's end. In November 1999, a trial began against Justus Munyao Kovu and Gabriel Muendo, two Makueni police officers accused of killing Mwendo Kiema during detention in July 1999. No further information was available at year's end. In July the High Court sentenced to death a police officer for the murder of a 14-year-old street boy in 1998. In December 2000, an inquest was completed into the January 1997 death of Catholic lay brother Larry Timmons in Njoro. In August a police officer was indicted for the killing; the trial date had not been set by year's end.

On June 15, the SCHR released its investigation report into the 2000 case in which prison guards at the King'ong'o Prison in Nyeri killed six inmates who were attempting to escape. Officials initially claimed that guards shot the six as they fled; however, the report concluded that the prison guards bludgeoned the inmates to death to cover up a plot by the guards to facilitate the escape of another inmate. In August following the release of the SCHR report, a judge recommended that the Attorney General charge Professor Onesmus Mutungi, chairman of the SCHR, with contempt of court for releasing the report, and Joseph Odindo, managing editor of the Daily Nation newspaper, for publishing the conclusions of the report. The judge reportedly thought that the release of the report compromised the inquest by the Attorney General, which was completed during the year; a trial was scheduled for January 2002.

Two police officers were charged with manslaughter during the year for the May 2000 killings of two suspected carjackers; one of the officers escaped, and a trial was scheduled for the other in December. It was unknown whether the trial was held by year's end. An inquest before the Principal Magistrate's Court at Kerugoya was ongoing at year's end into the case of Sophia Nyaguthil Mbogo, who died in custody at the Kagio Police Post in April 2000 reportedly after she was beaten by a policeman (see Section 1.c.); no arrests were made in the case. An inquest into the March 2000 killings of eight suspected carjackers was ongoing at year's end. In January 2000, police from the Mukuruweini police station allegedly beat to death Philip Machau. An inquest into this case by the Chief Magistrate in Nairobi was completed, and the court ruled that the two officers should stand trial. The trial date was pending at year's end.

There were some internal police investigations into the many killings of civilians by members of the security forces and some prosecutions; however, few were effective. The authorities sometimes attribute the absence of an investigation into an alleged extrajudicial killing to the failure of citizens to file official complaints. However, the form required for filing complaints is available only at police stations, which often lack the forms or are not forthcoming in providing them. There also is considerable public skepticism of a process that assigns the investigation of police abuse to the police themselves. The Police Department reported that 73 police officers were charged during the year for various offenses (the offenses were not noted); only 13 were tried. Of those tried, 9 were acquitted; 1 officer received a 10-year sentence; another received a 3-year sentence; 1 was imprisoned for 15 months; and another was fined approximately \$128 (10,000 shillings).

An investigation into the January 2000 killing of 5-year-old Chesortich remained open during the year; however, the body never was found.

The investigations were ongoing at year's end into the September 1999 killings of Mwanzia Mutkuku and of two armed men at a Nairobi bank. During the year, three police officers charged with the June 1999 killings of Victor Polo and Vincent Odhiambo were convicted of manslaughter and sentenced to 15 years imprisonment. An investigation into the January 1999 killings of two rice farmers in Mwea was ongoing at year's end.

There were no reported investigations into the following 1999 cases during the year: The July killings of Peter Kariuki, Jacob Anaseti, and Ramadhani Barula; the April killing of Ahluwalia Subir Ahluwalia; the March killing of Ibrahim Kullow Hussein; the February killing of Elijah Kimani Mwaura; and the February killing of David Muragi.

A hearing before the Senior Resident Magistrate in Kitale in the 1997 deaths in police custody of Moses Macharia Gicheru and Lomurodo Amodoi was ongoing at year's end.

In April the U.S. Federal Bureau of Investigation (FBI) released its final report into the August 2000 death of Father John Anthony Kaiser, a Catholic priest working in the country for more than 30 years; the report concluded that the evidence collected was most consistent with suicide (see Section 2.c.).

Unlike in the previous year, there were no reports of fighting between Muslim worshippers and local traders over land surrounding mosques.

Hundreds of prisoners died in custody due to life-threatening prison conditions, including inadequate food and medical treatment (see Section 1.c.). The Government recorded 464 deaths in prisons between January and November.

Mob violence continued at high levels during the year, which observers believe may have been associated with a continuing high crime rate. According to the Government and the KHRC, 56 persons were killed in mob violence during the year. Human rights observers attribute mob violence to a lack of public confidence in the police and the judicial process. The great majority of mob violence victims, who died by lynching, beating, or burning, were persons suspected of criminal activities, including robbery, cattle rustling, and membership in terror gangs. However, the social acceptability of mob violence also provided apparent cover for personal vengeance under the guise of "mob justice." In late April in a Nairobi slum, following beatings of two gang members by residents angered over recent gang muggings, the remaining gang members attacked the residents; seven people were killed in the ensuing violence. A man also was stoned to death during the violence after he shot and killed an 8-year-old boy.

In early May in the Kericho District of Rift Valley Province, a mob attacked a suspected murderer and set fire to many houses in revenge for the killing of a local businessman. Although police rescued the suspected murderer from the mob, a man was stoned to death as he fled his burning home. The incident also reportedly exacerbated ethnic tension in the area (see Section 5).

Occasionally mobs killed members of their communities on suspicion that they practiced witchcraft; however, there were no statistics available on the number of such deaths during the year (see Section 5).

Interethnic violence continued to cause numerous deaths (see Section 5). Some of these disputes spilled over into the country from neighboring countries (see Section 2.d.).

In 2000 armed men reportedly from Ethiopia killed nine persons and seriously injured five others near the border town of Moyale. Local politicians claimed that the attackers had support from Ethiopian security forces; the incident was not resolved by year's end.

Unlike in the previous year, there were no reports that the Oromo Liberation Front (OLF), an Ethiopian rebel group, laid landmines in northern areas of the country near the Ethiopian border.

b. Disappearance

There were no reported cases of politically motivated disappearances.

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

The Constitution states that "no one shall be subject to torture or degrading punishment or other treatment;" however, security forces continued to use torture and physical violence during interrogation and to punish both pretrial detainees and convicted prisoners. Although authorities periodically issue directives against the use of torture by police, the problem persists. Human rights organizations, churches, and the press highlighted and criticized numerous cases of torture and several cases of indiscriminate beating of groups of persons by police during the year. Common methods of torture practiced by police included hanging persons upside down for long periods, genital mutilation, electric shocks, and deprivation of air by submersion of the head in water. The KHRC reported 49 torture-related deaths during the year, and PAT reported 70 cases of death by torture and 238 total cases of torture; however, PAT still was documenting cases at year's end (see Section 1.a.).

There were numerous allegations of police use of excessive force and torture. The KHRC believe police brutality is widespread and estimated that there were hundreds of cases during the year. Detainees routinely claimed that they had been tortured, making it difficult to separate real from fabricated incidents. According to MUHURI, on January 18, police allegedly tortured, shot, and killed Abdillahi Mohamed Mashuhuri (see Sections 1.a., 1.d., and 1.f.); no action was taken against the responsible officers by year's end.

On January 2, Arwings Odera was charged with publishing false information; in December 2000, police reportedly shot and injured Odera (see Sections 1.d. and 2.a.). No action was taken against the police by year's end.

In June The Nation newspaper reported that Francis Muruatetu testified that he had been tortured by police into confessing to a murder. The victim, a retired police inspector, reportedly said that he was hung naked from a tree in a forest where a dead body hung from another tree; the police allegedly shot at the other body while they interrogated Muruatetu. The victim also claimed that he was denied food and medicine during his 4 days' detention. During his trial, the court determined that his allegations of torture were unfounded.

According to an unconfirmed report published on August 1 in the People Daily newspaper, workers at Nyeri Provincial Hospital said that prison wardens from King'ong'o prison pulled a murder suspect from his hospital bed and returned him to the prison. The suspect reportedly claimed that he was beaten outside the hospital and then beaten unconscious after he returned to the prison. Prison guards reportedly returned the suspect to the hospital the following day out of fear that he might die from his injuries.

According to organizations that work with street children, police also beat and abuse street children (see Section 5). The case against Mombasa police officers Mwingi Chula and Peter Ndwiga, who were arrested for raping a 13-year-old street girl in May 1999, was pending at year's end.

Police repeatedly used excessive force and beat persons when breaking up demonstrations and opposition political party rallies (see Sections 2.b. and 6.a.). Police forcibly dispersed several protests after they became violent, injuring some persons (see Section 2.b.).

Following President Moi's December 2000 ban on all future rallies by Muungano wa Mageuzi (MWM or Movement for Change), police prevented or forcibly dispersed all rallies held by the group, which resulted in several injuries and arrests

(see Sections 1.d., 2.a., 2.b., and 3).

On February 4, police beat and arrested James Orengo when he notified them of a planned MWM rally; on February 8, police forcibly prevented the rally (see Sections 1.d. and 2.b.). On July 7, police again beat and arrested Orengo and environmental activist Wangari Maathai at a rally to commemorate the anniversary of the multi-party movement; they were released and their cases were pending at year's end (see Sections 1.d. and 2.b.). On July 22, police used tear gas to forcibly disperse a rally in Kapsabet town (see Section 2.b.).

On October 20, police arrested 71 members of the Release Political Prisoners (RPP) group, prominent activist Kivutha Kibwana, and members of other NGO's for holding an illegal meeting to commemorate Kenyatta Day (see Sections 1.d. and 2.b.). Police reportedly used tear gas during the arrests and beat some of the detainees. On October 21, members of the RPP converged on the police station where the detainees were being held to call for their release. Police officers responded with tear gas and beat the RPP members with batons and hockey sticks. On October 26, the detainees were released on bond and scheduled for trial in December; all charges against the group later were dropped (see Sections 1.d. and 2.b.).

In May 2000, President Moi was quoted widely in the press calling for action against the Mungiki religious and political group; police forcibly disrupted several of the group's meetings during the year, injuring several persons (see Section 2.b.). On April 18, police used tear gas and batons to forcibly disperse a march by Mungiki members; numerous persons were injured, (see Sections 1.d., 2.b., and 2.c.). The Government arrested numerous Mungiki members during the year (see Section 1.d.).

Student protests and riots occurred frequently during the year, and police forcibly dispersed several protests after they became violent, which resulted in injuries.

Unlike in the previous year, there were no violent incidents during the elections to the Kenya Tea Development Authority's Board of Directors (the cooperative which represents the country's 56 tea factories).

In 2000 94 M.P.'s released a report entitled "The Politicization and Misuse of the Kenya Police and the Administration Police Force," which criticized the police for misuse of force and human rights abuses. The SCHR wrote in its 2000 report that the "majority of [human rights] cases have involved torture and brutality meted out to individuals mainly by law enforcement agencies and others whose primary duty would be to protect and defend those very rights." In June 2000, President Moi ordered police to stop using live ammunition when quelling riots; however, the pronouncement had little effect on police behavior.

During the year, the Government investigated some allegations of police use of excessive force and torture, and prosecuted several police officers; some officers were charged, convicted, and sentenced for killings (see Section 1.a.). The Government recorded no cases of torture during the year. In September 2000, prison guards at the King'ong'o Prison in Nyeri killed six inmates who were attempting to escape (see Section 1.a.). Officials initially claimed that guards shot the six as they fled; however, there were media and NGO reports that the six had died of blows to the head and severe beatings after recapture. By some accounts, the dead inmates had their eyes gouged out and heads beaten and were disfigured beyond recognition. The Attorney General ordered an inquest into the killings, and the police were investigating the matter at year's end. A woman, Margaret Njeri, claimed that police tortured her to extract a confession; police officers allegedly stripped, whipped, beat her until she bled, and sexually abused her. In 2000 Njeri filed a formal complaint to police and said that she intended to sue police for damages; the case was pending at year's end. In May 2000, police officers Charles King'ori and Wilson Kinyanjui from the Makueni Police Station allegedly undressed Charles Muteti Mulwa, bound his hands and legs, and sexually abused him. King'ori and Kinyanjui were charged with assault and their cases were pending before the Makindu Principal Magistrate at year's end, and further hearings were scheduled for February 2002; it was unknown whether they were in detention or released on bail.

In September 2000, a magistrate in Nakuru granted the request of six army officers, Nahashoon Kili, Moses Kiprotich, John Masai, Joseph Tanui, Henry Buienei, and Tito Rono, to pursue charges of torture against members of the 66th Artillery Battalion; the six had been held for 6 months in 2000 on suspicion of mutiny. On February 3 in Eldoret, four of the six officers told journalists that while under military detention, they had their testicles pricked with needles, were beaten, were deprived of food for days, and were doused with cold water while naked. The officers said they were tortured into falsely confessing to having planned a mutiny. During the year, the Chief Magistrate dismissed the case against the members of the 66th Artillery Battalion for procedural reasons; the army officers appealed the decision, which was pending at year's end.

In 2000 authorities disbanded a special squad of 30 police officers attached to the CID because they allegedly were involved in numerous robberies, carjackings, and killings. Due to lack of evidence against them, there were no reports that members of the squad, reportedly code-named Alfa Romeo, were prosecuted by year's end. The Attorney General's office reported that the officers were redeployed in order to enhance efficiency, not for any illegal activities.

The inquest into the April 2000 killing of Sophia Nyaghtii Mbogo was ongoing at year's end. The inquest into the January 2000 killing by two officers of Philip Machau was completed during the year; the officers were awaiting trial at year's end.

The December 2000 case of Betty Dindi and the January 2000 killing of Joseph Ndung'u Nyoike, which involved torture, beatings, or abuse by members of the security forces, were dismissed due to lack of evidence.

No action was taken in the February 2000 beating case of journalist Mohammed Sheikh; the Government claimed that it was unaware of Sheikh's complaint and that Sheikh could not be found.

There was no known action taken against members of the security forces responsible for torturing, beating, or abusing the persons in the February 2000 case in which police fired at suspected robbers who were fleeing from police and seriously injured a teenaged boy and the January 2000 case of William Tanui.

No known action was taken during the year against police who reportedly used excessive force when breaking up demonstrations, student riots, or Mungiki meetings on the following dates in 2000: December 17; December 13; September 11; August 19; July 30; June 21; June 20; June 12; and February 28.

Investigations were ongoing in the following 1999 cases: The case of Julius Muhoro Mugo, who was tortured by CID officers; and the case of Johnnes Musyoka Kimonyi, who was beaten by police in Buru Buru.

The May 1999 case of residents of Balessa and El Hadi and the April 1999 case of Duncan Ndwega, which involved torture, beatings, or abuse by members of the security forces, were dismissed due to lack of evidence.

Police denied that charges of torture, beating, or abuse had been filed in the following 1999 cases: The September case of Geoffrey Mbuthia Nduati; the February case of Peter Macendu; and the January case of Jeremiah Kasuku.

There was no known action taken against members of the security forces responsible for torturing, beating, or abusing the persons in the following 1999 cases: The May case of James Orengo; and the January case in which police beat a crowd protesting the results of the National Assembly by-election in Eastern Province.

Caning continued to be used as punishment in cases such as rape (see Section 5).

Acts of violence, including rape, banditry, and shootings, occur regularly near refugee camps (see Sections 2.d. and 5).

There were several violent incidents between progovernment supporters and opposition supporters during the year, mostly during opposition rallies (see Section 2.b.).

Unlike in the previous year, there were no reports of fighting between Muslim worshippers and local traders over land surrounding mosques.

Prison conditions are harsh and life threatening, due both to a lack of resources and to the Government's unwillingness to address deficiencies in the penal system. Prisoners are subjected to severe overcrowding, deficient health care, and receive inadequate water, diet, and bedding. Police and prison guards subject prisoners to torture and inhuman treatment (see Section 1.a.). Rape of both male and female inmates, primarily by fellow inmates, is a serious problem, as is the increasing incidence of HIV/AIDS. Disease is widespread in prisons, and the death rate is high. Only one prison health facility had a resident doctor. The others were staffed by clinical officers or nurses posted from the nearest government hospital. Prisoners sometimes are kept in solitary confinement far longer than the maximum 90 days allowed by law. Prisoners and detainees frequently are denied the right to contact relatives or lawyers. On July 4, The Nation newspaper reported on its investigation into prison conditions nationwide. The article highlighted the difficulty family members have in visiting prisoners, including numerous bureaucratic and physical obstacles, each requiring a bribe.

The country's prisons reportedly hold 2 to 3 times their estimated combined capacity of 15,000 inmates. The average daily population of prison inmates was 38,739, 33 percent of whom were pretrial detainees. While the prison population has increased steadily over the last several years, prison facilities have not. According to the Government, there are 89 prison facilities. Overcrowding led to health-related problems arising from the sharing of amenities, encouraged the spread of infectious diseases, and resulted in food and water shortages. There is little access to health care and medicine. According to the Government, 464 prisoners died in jails during the first 11 months of the year, compared with 768 in 2000. Deaths were due chiefly to tuberculosis, dysentery, anemia, malaria, heart attack, typhoid fever, and HIV/AIDS, for which there is little access to health care and medicine.

On March 23, the KHRC hosted a public meeting at which former prisoners discussed their experiences while in prison. The former prisoners described prisons as full of disease, death, corruption, and brutality with guards demanding bribes for the most basic amenities. Responding to public allegations of unacceptable

detention conditions, in 2000 the Government sent to Kodiaga Prison a fact-finding team, which found that prison conditions were acceptable. In January 2000, Commissioner of Prisons Edward Lokopoyit dismissed allegations of widespread torture in prisons; however, press reports continue to highlight the substandard conditions in the prisons. In September 2000, the Attorney General said publicly that some prisons were "unfit for humans." The following day, the Nyeri District Commissioner decried poor prison conditions countrywide.

By most accounts, prisoners receive three meals per day; however, in the past there have been reports of food shortage as well as reports that senior prison officers misappropriated the meat provided for prisoners. There were no reports during the year of food shortages or that prisoners died from hunger. During a 1999 visit by the U.N. Special Rapporteur for Torture, Nigel Rodley, prison authorities at Nakuru GK Prison confirmed that inmates on remand received half the ration of food provided to regular prisoners because they did not work.

Men, women, and children officially are kept in separate cells, and there were no reports that men and women were placed in the same cells. Women sometimes lack access to sanitary napkins and often have only one change of clothes, leaving them naked during the washing of their laundry. Young teenagers frequently are kept in cells with adults in overcrowded prisons and detention centers. Youth detention centers are understaffed, and inmates have minimal social and exercise time. Some young inmates remain for years in the centers, as their cases await resolution.

Nearly all prisoners serving more than 6 months in prison work in the prison industries and farms. Men work in printing services, car repair, tailoring, metal work, and leather and upholstery work. Women are taught sewing, knitting, dressmaking, rug making, basket weaving, jewelry making, and other crafts. Outdated laws mandate prisoners' earnings at \$0.35 to \$0.70 per year. Prisoners on good conduct can, with permission, work beyond the 8-hour day to produce goods, from which they earn two-thirds of the profits. Prisons are unable to invest these sizable profits in the prisons because income generated from the sale of prison products is sent directly into the Government Consolidated Fund. Some observers allege that prison officials use the free prison labor for personal profit; however, many inmates leave prison with a valid trade certificate.

The courts are responsible partly for overcrowding, as the backlog of cases in the penal system continues to fill the remand sections of prisons (see Section 1.d and 1.e.). Many detainees spend more than 3 years in prison before their trials are completed, often because they cannot afford even the lowest bail. Very few can afford attorneys.

The Government does not permit consistent independent monitoring of prison conditions. In general the Government does not permit domestic NGO's to visit prisons; however, some independent NGO's work with the Government in evaluating torture cases and performing autopsies on deceased prisoners. The SCHR has the authority to inspect prison facilities on demand at any time. The SCHR inspected several prisons during the year and found very poor conditions. For example, the Industrial Area Prison in Nairobi housed 3,000 prisoners despite a capacity for only 500.) In 2000 U.N. Special Rapporteur Rodley released a report on his visits to several prisons in 1999. Rodley noted the problems of limited access by observers, poor sanitation and health care, and overcrowding.

d. . . Arbitrary Arrest, Detention, or Exile

Despite constitutional protections, police continued to arrest and detain citizens arbitrarily. The Constitution provides that persons arrested or detained be brought before a court within 24 hours in noncapital offenses and within 14 days in capital cases. The Penal Code specifically excludes weekends and holidays from this 14-day period. The law does not stipulate the period within which the trial of a charged suspect must begin. Indicted suspects often are held for months or years before being brought to court. The Government has acknowledged cases in which persons have been held in pretrial detention for several years. Police from the arresting location are responsible for serving court summons and for picking up remandees from the prison each time the courts hear their cases. Police often fail to show up or lack the means to transport the remandees, who then must await the next hearing of their case. For example, in the case of six army officers who pursued charges of torture against members of the 66th Artillery Battalion, the courts later criticized Police Commissioner Philemon Abong'o for failing to serve the accused army officials with the court summons (see Sections 1.a. and 1.c.).

The law provides that families and attorneys of persons arrested and charged are allowed access to them, although this right often is not honored (see Section 1.c.). Family members and attorneys may visit prisoners only at the discretion of the authorities. This privilege often is denied. For those who have been charged, it often is possible to be released on bail with a bond or other assurance of the suspect's return.

Prison overcrowding is a problem, and the backlog of cases in the penal system continues to fill the remand sections of prisons (see Section 1.e.). Many detainees spend more than 3 years in prison before their trials are completed, often because they cannot afford even the lowest bail.

In 2000 the Government instituted the Community Service Order (CSO), a program whereby petty offenders perform community service rather than serve a custodial sentence. According to the Home Affairs Permanent Secretary, the Government spent \$250,000 (20 million shillings) on the CSO in 2000 and \$500,000 (40 million shillings) before year's end. There were 11,000 petty offenders participating in the program during the year. The program eventually may help alleviate overcrowding; however, there was no indication of any relief by year's end.

Citizens frequently accuse police officers of soliciting bribes during searches or falsely arresting individuals to extract bribes (see Section 1.f.). The police continued repeatedly to conduct massive searches ("sweeps") for

illegal immigrants and firearms (see Sections 1.f. and 2.d.). The KHRC recorded 1,950 arrests during sweeps in 2000. In May police arrested approximately 1,400 suspects during a single sweep (see Section 1.f.). It was unknown if they had been released by year's end.

According to MUHURI, police allegedly detained five colleagues of Abdillahi Mohamed Mashuhuri whom they arrested on narcotics charges after raiding Mashuhuri's house on January 18 (see Sections 1.a., 1.c., and 1.f.). A ruling on the case was pending at year's end; it was unknown whether the five remained in detention.

On March 7, environmental activist Wangari Maathai was arrested as she collected signatures to block a controversial government plan to transfer vast tracts of forest from public to private ownership; no charges were filed, and Maathai was released 2 days later.

The Government often arrested civil society leaders and opposition politicians and charged them with participating in illegal gatherings (see Section 2.b.). On February 4, police beat and arrested James Orengo when he and others went to a proposed rally site in Kisii to notify police of their intent to hold an MWM rally, as required by law (see Sections 1.c. and 2.b.). Police prevented Orengo's lawyers from seeing him. Orengo was charged with taking part in an illegal assembly and resisting arrest; he subsequently was released, but his case remained pending before the court at year's end. Orengo has been arrested on questionable charges more than eight times since 1997; many of these cases against Orengo, including one from January 2000, remained pending at year's end. On February 8, police forcibly prevented the MWM rally and arrested numerous persons. On February 8 in Kisumu, police arrested another opposition M.P., Anyang' Nyong'o, and four other opposition supporters in Kisumu, where MWM also attempted to hold a rally (see Section 2.b.). On July 7, police again beat and arrested James Orengo and environmental activist Wangari Maathai at a rally to commemorate the 10th anniversary of the multi-party movement (see Sections 1.c. and 2.b.). Orengo and Maathai were released, and the charges against them were dropped.

Following an opposition rally on April 28 that police earlier had attempted to cancel for "security concerns," police arrested two Democratic Party (DP) M.P.'s, Maina Kamanda and David Manyara (see Sections 2.a. and 2.b.). Kamanda was charged with treason for allegedly threatening the life of President Moi during a speech at the meeting. Kamanda later was released and the treason charge was dropped; however, he was charged with the lesser offense of "incitement," the same charge on which Manyara was arrested a few days later for a speech he gave at the same rally.

On April 18, police forcibly dispersed a march by Mungiki members; six persons reportedly were arrested, and numerous persons were injured (see Sections 1.c., 2.b., and 2.c.). It was unknown whether those arrested had been released by year's end. On November 16, more than 70 members of the Mungiki and Kamjesh groups were arrested for extortion and for seizure of the routes used by privately owned public transportation vehicles, known as matatus. On November 19, police arrested Mungiki leader Ibrahim Waruinge, who previously had announced that Mungikis planned to take over the management of the routes of privately owned transportation vehicles; he was charged with promoting "warlike" activities during a July clash between Mungiki members and matatu drivers which resulted in five deaths.

On October 20, police arrested 71 members of the RPP group, prominent activist Kivutha Kibwana, and members of other NGO's for holding an illegal meeting to commemorate Kenyatta Day (see Section 2.b.). Police reportedly used tear gas during the arrests and beat some detainees. On October 26, the detainees were released on bond and scheduled to go on trial in December; all charges against the detainees later were dropped.

Student protests and riots occurred frequently during the year, and police arrested numerous students responsible for violence during the incidents.

During the year, police arrested a number of journalists on charges of publishing information "likely to cause alarm to the public" (see Section 1.a.). On January 2 in Kisumu, Arwings Odera, a freelance journalist, was charged with publishing false information (see Sections 1.c. and 2.a.) In January he was released on bail; Arwings reportedly fled the country, and the case against him remained pending at year's end. In April the Government sealed the offices of Citizen Radio and Television and detained its owner, who later was released (see Section 2.a.). The case was pending at year's end.

There were no developments in the following cases from 2000: The December case of several journalists arrested during an MWM rally; the July arrests of 10 Mungiki members; and the April arrests of Joseph Kirangathi Njoroge, Esther Wamucii, John Gitonga, and Mwangi Gachie Kamau.

In April 2000, police arrested and beat Mohammed Sheikh, a journalist for The People (see Section 2.a.). Sheikh was released on bail and filed a complaint; the Government claimed that it was unaware of Sheikh's complaint and that Sheikh could not be found. In February 2000, John Wandetto, a journalist for The People who was arrested in 1999, received an 18-month jail sentence for writing a report that "risked causing alarm." During the year, Wandetto appealed the sentence to the High Court, which ruled in his favor and released him without charge.

Pretrial detention remained a problem. On June 22, Richard Wachira Wambugu was released after spending 18 years in detention awaiting trial for murder. On October 26, 2000, Michael Owour, on remand at Kamiti Prison and charged by the Kiambu Court with a violent robbery, was tried, convicted, and sentenced to death; he allegedly had been awaiting trial for 4 years.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice the judiciary often is corrupt and subject to strong influence from the executive branch. The President has extensive powers over appointments, including those of the Attorney General, the Chief Justice, and Appeal and High Court judges. The President also can dismiss judges and the Attorney General upon the recommendation of a special presidentially appointed tribunal. Although judges have life tenure (except for the very few foreign judges who are hired by contract), the President has extensive authority over transfers.

In previous years, judges who ruled against the Government sometimes were punished with the transfer or nonrenewal of their contracts; however, no retaliatory action against judges was reported during the year. Judges occasionally demonstrated independence. Several cases involving opposition M.P.'s have been pending for years, with the courts repeatedly postponing the hearings, thereby requiring the M.P.'s to appear periodically in court or risk fines or imprisonment. In 2000 a Homa Bay court sentenced M.P. Shem Ochuodho to more than 3 years in prison for a violent assault on a political rival during the 1997 election. While violence may have occurred, observers believe the court may have applied the law inequitably; no KANU M.P.'s were similarly charged despite credible allegations of violence on their part during campaigning. There were a number of protests against Ochuodho's conviction; 10 days later, High Court Justice Barbara Tanui overturned the conviction, ordered a new trial, and released Ochuodho. Police immediately rearrested Ochuodho, took a statement regarding the case, and then released him on bail. On November 30, eight charges of malicious damage to property and two assault charges were withdrawn; however, the case remained under investigation at year's end.

The Attorney General's constitutional power to discontinue proceedings in private prosecution cases was a problem. Arguing that citizens must first notify his office before initiating private prosecution, Attorney General Amos Wako has used this authority on a number of occasions to terminate cases against government officials.

No action was taken during the year to implement the recommendations of the 1998 Kwach Commission, which the Chief Justice appointed to report on the problems of the judiciary. The Kwach Commission cited "corruption, incompetence, neglect of duty, theft, drunkenness, lateness, sexual harassment, and racketeering" as common problems in the judiciary. The Commission recommended amending the Constitution to allow for the removal of incompetent judges, introducing a code of ethics, improving the independence of the judiciary, overhauling the Judicial Services Commission (the administrative branch of the judiciary), and shifting prosecutorial responsibilities from the police to the judiciary. Upon receipt of the report, the Chief Justice in late 1998 appointed another commission to investigate modalities of implementing the Kwach Commission's recommendations for improving the judiciary. No action was taken on those recommendations by year's end.

The court system consists of a Court of Appeals, a High Court, and two levels of magistrate courts, where most criminal and civil cases originate. The Chief Justice is a member of both the Court of Appeals and the High Court, which undercuts the principle of judicial review. Military personnel are tried by military courts-martial, and verdicts may be appealed through military court channels. The Chief Justice appoints attorneys for military personnel on a case-by-case basis.

The country has Islamic courts that resolve disputes, adjudicate inheritance questions and marital issues, and handle other civil matters where all parties are Muslim and accept the court's jurisdiction. The Constitution provides for these courts, and states that "jurisdiction of a Kadhi's court shall extend to the determination of questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion." The courts have functioned in the country for numerous years. There are no other customary or traditional courts in the country. However, the national courts use the customary law of an ethnic group as a guide in civil matters so long as it does not conflict with statutory law. This is done most often in cases that involve marriage, death, and inheritance issues and in which there is an original contract founded in customary law. For example, if a couple married under national law, then their divorce is adjudicated under national law, but if they married under customary law, then their divorce is adjudicated under customary law. Citizens may choose between national and customary law when they enter into marriage or other contracts; however, thereafter the courts determine which kind of law governs the enforcement of the contract. Some women's organizations seek to eliminate customary law because they feel it is biased in favor of men (see Section 5).

Civilians are tried publicly, although some testimony may be given in closed session. The law provides for a presumption of innocence, and for defendants to have the right to attend their trial, to confront witnesses, and to present witnesses and evidence. Civilians also can appeal a verdict to the High Court and ultimately to the Court of Appeals. Judges hear all cases. In treason and murder cases, the deputy registrar of the High Court can appoint three assessors to sit with the High Court judge. The assessors are taken from all walks of life and receive a sitting allowance for the case. Although the assessors render a verdict, their judgment is not binding. Lawyers can object to the appointments of specific assessors.

Defendants do not have the right to government-provided legal counsel, except in capital cases. For lesser charges, free legal aid rarely is available, and then only in Nairobi and other major cities. As a result, poor persons may be convicted for lack of an articulate defense. Although defendants have access to an attorney in advance of trial, defense lawyers do not always have access to government-held evidence. The Government can plead the State Security Secrets Clause as a basis for withholding evidence, and local officials sometimes classify documents to hide the guilt of government officials. Court fees for filing and hearing cases are high for ordinary citizens. The daily rate of at least \$25 (2,000 shillings) for arguing a civil case before a judge is beyond the reach of most citizens.

Critics of the Government—politicians, journalists, lawyers, and students—have been harassed through abuse

of the legal process. Authorities continued to arrest opposition M.P.'s and journalists during the year (see Sections 1.d. and 2.a.), and a number of opposition M.P.'s, student leaders, and human rights activists still had one or more court cases pending during the year. Some of these cases often have been pending for months or even years.

There were no reports of political prisoners.

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

At times authorities infringed on citizens' privacy rights. Although the Constitution provides that "no person shall be subjected to the search of his person or his property or the entry by others on his premises", it permits searches without warrants "to promote the public benefit." The Police Act permits police to enter a home forcibly if the time required to obtain a search warrant would "prejudice" their investigation. Although security officers generally obtain search warrants, they occasionally conduct searches without warrants to apprehend suspected criminals or to seize property believed to be stolen. Citizens frequently accuse police officers of soliciting bribes during searches or of falsely arresting individuals to extract bribes (see Section 1.d.). Unlike in previous years, there were no reports that Nairobi police searched offices of the media without warrants.

According to MUHURI, on January 18 in Mombasa, police allegedly raided the house of Abdillahi Mohamed Mashuhuri and detained Mashuhuri and five of his colleagues (see Sections 1.a., 1.c., and 1.d.).

In April the Communications Commission of Kenya (CCK) sealed the offices of Citizen Radio and Television and confiscated equipment (see Sections 1.d. and 2.a.) On May 20, police officers raided offices of The People newspaper, reportedly to take statements from two senior editors who had written a story alleging a connection between the Office of the President and troubles in the hotel businesses of opposition politician Kenneth Matiba (see Section 2.a.).

The police continued to conduct massive warrantless searches ("sweeps") for illegal immigrants and firearms in residential neighborhoods of major cities (see Section 2.d.). The KHRC recorded 1,950 arrests during sweeps in 2000 (see Section 1.d.). Residents complained that police who entered homes on the pretense of searching for weapons often asked for radio, television, and video receipts and permits and demanded bribes to refrain from confiscating those items in the absence of such documents. During one such sweep in May, police arrested approximately 1,400 suspects; Nairobi Police Chief Geoffrey Mwathe announced that he had directed a "massive operation to pick up all known criminals for known offenses and unknown offenses" and admitted that some innocent people were "likely to suffer."

Security forces monitored closely the activities of dissidents, following or otherwise harassing them. They employed various means of surveillance, including a network of informants to monitor the activities of opposition politicians and human rights advocates. Some opposition leaders, students, journalists, and others continued to report that the Government subjected them to surveillance and telephone wiretaps; however, there were no reports of interference with written correspondence during the year.

Members of the coastal Bajuni, Mijikenda, and Digo communities accused the Government of denying them their rights to land (see Section 5).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, the Government broadly interprets existing laws to restrict free expression. The Government continued to harass, beat, and arrest elements of the media during the year (see Sections 1.c. and 1.d.), and various media and human rights organizations criticized police for such actions during rallies and demonstrations in 2000. The print media has been relatively independent for decades and since 1992 has multiplied and become more outspoken; there was further liberalization of the electronic media during the year, including radio, television, and Internet communications. The developing regulatory framework for broadcast media allowed abuse and manipulation in the issuance, withholding, and revoking of broadcast permits and frequencies. Police repeatedly dispersed demonstrators to prevent criticism of the Government, and journalists covering such events often were present during the dispersals (see Sections 1.c., 1.d., and 2.b.). In spite of these pressures, the press, civic organizations, and the opposition continued to present their views to the public, particularly in the print media. Government pressure led journalists to practice some self-censorship.

Following an opposition rally in Central Province on April 28 that led to the arrest of two M.P.'s on charges of incitement, President Moi ordered the police to monitor and record all public speeches by politicians at political rallies (see Sections 1.d. and 2.b.). The order was regarded widely as an attempt to restrict political speech by threatening to arrest those whose speech could be interpreted by the Government as inflammatory.

Following an opposition rally on April 28 that police earlier had attempted to cancel for "security concerns," police arrested two DP M.P.'s, Maina Kamanda and David Manyara (see Sections 1.d. and 2.b.). Kamanda was charged with treason for allegedly threatening the life of President Moi during a speech at the meeting. The Government-controlled Kenya Broadcasting Corporation (KBC) broadcast a video that showed Kamanda saying that President Moi should be shot if he did not leave office after his current term ended; however, a Kenya Television Network (KTN) news video of the same event indicated that the tape shown on KBC had excluded three words. Kamanda actually had said that Kamanda himself should be shot if he (Kamanda) were

to agree to another term for Moi. Kamanda later was released and the treason charge was dropped; however, he was charged with the lesser offense of "incitement."

On the whole, the print media remained candid and independent. The mainstream print media include four daily newspapers that report on national politics. The largest newspaper, the Nation, is independent and often publishes articles critical of government policies. The second largest newspaper, the East African Standard, is controlled by an investment group with close ties to the Government and the ruling KANU party. It is generally, although not automatically, supportive of the Government. The third daily newspaper, The People, formerly a weekly, is owned by an opposition politician and is highly critical of the Government. The fourth daily, the Kenya Times, which has a small circulation, reflects KANU party views. There also are numerous independent tabloid or "gutter" periodicals, which appear irregularly and are highly critical of the Government. Reporting in these tabloids ran the gamut from revealing insider reports to unsubstantiated rumor-mongering. While all Kenyan newspapers suffered financially to varying degrees because of the prolonged economic and business downturn, the Government no longer openly pressured businesses against advertising with opposition media during the year.

Unlike in previous years, the Government did not pressure businesses against advertising with opposition media during the year. While there was no overt official government pressure on journalists, individual journalists reported that they were pressured by government officials and other influential persons to avoid reporting on issues that could harm the interests of these persons or expose their alleged wrongdoings. Some editors and journalists reportedly practiced self-censorship because of government pressure or bribes; there also were credible reports of journalists accepting payments to report or withhold certain stories, some of which were fabricated.

The Government attempted to intimidate the pro-opposition press with arrests and pressure, and by selective prosecution of journalists under a colonial-era section of the Penal Code that criminalizes the publication of information likely to cause fear or alarm. Reports that police beat and arrested journalists continued during the year (see Sections 1.c., 1.d., and 2.b.). In December 2000, police arrested Arwings Odera, a freelance journalist who had published a series of articles alleging corruption in government-backed projects, including the foreign-funded hydroelectric power project in Sondu-Miriu. On January 2, Odera was charged with publishing false information, trespassing, incitement to violence, and resisting arrest; he was released later in January. Police reportedly also had shot and injured Odera in his car in December 2000; in January he was released on bail and in July he fled to South Africa for fear of his life (see Sections 1.c. and 1.d.).

On May 20, police officers raided offices of The People, reportedly to take statements from two senior editors who had written a story alleging a connection between the Office of the President and troubles in the hotel businesses of opposition politician Kenneth Matiba (see Section 1.f.).

In November the court tried and acquitted Aola Ooko, a correspondent for the Agence France Presse, who was arrested in March 2000 for fabricating allegations against the police in Mombasa.

In February 2000, John Wandetto, a journalist for The People who was arrested in 1999, received an 18-month jail sentence for writing a report that "risked causing alarm." During the year, Wandetto appealed the sentence to the High Court, which ruled in his favor; he was released.

In April 2000, police arrested and beat Mohammed Sheikh, a journalist for The People. Sheikh was released on bail and filed a complaint; the Government claimed that it was unaware of Sheikh's complaint and that Sheikh could not be found.

The case against Simbi Kisumba, a journalist for The People, who was arrested in 2000 for publishing an article that criticized the police, remained pending at year's end.

There were no developments in the December 2000 arrest and detention of several journalists at an MWM rally.

The Government continued to loosen its control over electronic broadcast media in and around Nairobi, while maintaining its dominance of broadcast services to regional towns and rural areas, where the majority of the country's population live. KBC is the oldest broadcaster and the only one with a national network of broadcast and cable television, AM and FM radio, and short-wave broadcasts. KBC remained the only domestic source of current information for most persons outside the Nairobi area; stations operated by other media companies, including 12 radio stations, operate primarily in Nairobi and its outlying areas.

The Government controls KBC, and KBC's monopoly on broadcasting nationally continued to limit severely the ability of opposition leaders and other critics of the Government to communicate with the electorate outside the capital. KBC stations do not criticize the Government and give a large share of news time to government or KANU party functions and little coverage to opposition activities. During the 1997 elections, the Electoral Commission directed KBC to accord equal treatment to all political parties; however, this directive has never been implemented fully. KBC news coverage remains biased in favor of KANU and President Moi. In addition the KBC's limited coverage of the opposition generally was negative, compared with uniformly positive coverage of KANU. Opposition politicians accused the Government of using similar tactics in the 1999 by-elections.

KTN, a subsidiary of the East African Standard group of newspapers that is owned by KANU supporters, airs news programs with more balanced political coverage than KBC. KTN broadcasts in Nairobi and Mombasa. Stellavision also is owned by KANU supporters and operates in collaboration with TV Africa and SKY TV of

London. Stellavision does not air local news, relying instead on rebroadcasts of SKY TV and British Broadcasting Corporation (BBC) world news; it broadcasts in Kisumu, Mombasa, and Nairobi. Other TV stations in operation in Nairobi are Nation-TV, associated with the Nation newspaper group, and Family, a Christian-oriented broadcaster. Citizen TV and Citizen Radio, which broadcast generally objective news programs, ceased operations during the year. By year's end, Citizen Radio resumed its broadcasts to much of the central areas of the country; Citizen TV, which formerly broadcast to the Nairobi area, remained closed. Family TV and Radio broadcasts in the Nairobi metropolitan area; Nation Television also broadcasts in Mombasa, providing independent media coverage.

The following radio stations also broadcast in Nairobi: Nation, Kameme, BBC, Voice of America (VOA), Capital, Family, Kiss, Iqra, Metro East, and Sounds Asia. In addition to KBC, Sauti ya Rehema, a non-denominational religious radio station broadcasting in Kiswahili, English, and other local languages in Eldoret, and the Mombasa-based Christian-oriented Baraka FM radio broadcasting in Kiswahili and English transmit outside of Nairobi.

In June rebroadcasts of VOA programming on FM radio began in Nairobi; in 2000 the Government issued a permit to VOA to broadcast locally. VOA requests for similar broadcast access to Mombasa were not approved.

The Government, through the CCK, continued to delay action on a number of radio and television license applications on the grounds that it was reorganizing and regularizing its licensing procedures. The Ministry of Information, Transport, and Communication continued to argue that it was waiting for the recommendations on media liberalization from the Attorney General's Task Force on Press Law. That Task Force made its initial report in December 1998; however, it still has several outstanding issues to resolve, including the manner of selection of the 13-member Media Commission, which would act as an independent body issuing broadcast licenses. In April the Government announced that a policy on broadcast licensing would be issued to ensure transparency in licensing procedures; however, no such policy was issued by year's end. The CCK regulates frequency allocations, while the Ministry of Transport and Communications issues licenses. The Ministry has licensed 33 organizations (6 of which are KBC companies) to broadcast, and the CCK has allocated frequencies to a total of 9 television and 18 radio stations, although some were not broadcasting at year's end. In 1999 Nation Media Group received authorization for radio broadcasts in Nairobi, Mombasa, Kisumu, and Nakuru, and began radio and television transmission to Nairobi. Nation Media also sued the Government for permission to broadcast radio and television nationwide, but the case was still before the courts at year's end. In 1998 the Ministry approved radio and television broadcast licenses for a Muslim group and for a Christian group, and in 1999, the Ministry licensed an Islamic radio station and three Catholic television stations. In 2000 the Supreme Council of Kenya Muslims (SUPKEM) began test-running Iqra Radio Station, which provides information, educational programming, and entertainment for Muslim audiences in Nairobi; Iqra was operational fully at year's end. In June the Government announced that it would not issue any more licenses to broadcast in Nairobi until new policies were in place. According to the Ministry, there were 120 applications for Radio/TV licenses pending at year's end.

Private organizations that have been issued frequencies to broadcast but have not done so include the Pentecostal Church, Pete Aviation, and Maritime Media Services. The Catholic Church, which reportedly has been allocated radio and television frequencies for Nairobi, had not begun broadcasting by year's end. It reportedly wants a nation-wide frequency, while the Government insists on region-by-region allocation of locally based broadcasters. The Government also licensed and provided frequencies to the East African Television Network (EATN), the only recipient of a national frequency other than KBC; however, a dispute arose with the Government after EATN formed a partnership with Nation Media. The Government blocked EATN from using the frequencies and the case was pending in the courts at year's end.

In January the CCK ordered the shutdown of Citizen Radio and Television broadcast for unpaid licensing fees and improper use of communications equipment. Citizen claimed that the shutdown, which only affected its operations outside Nairobi, was motivated politically. Citizen, which began broadcasting in 1999, appealed the order in the courts and continued broadcasting in Nairobi; however, in 2000 the court upheld the CCK's order and Citizen again appealed to the highest court, the Court of Appeal. In April after Citizen moved its broadcast equipment from borrowed space on government-controlled towers to a new location on the outskirts of Nairobi, the CCK sealed Citizen's offices, confiscated equipment, and detained its owner (see Section 1.d.). Citizen appealed the Government's action, and the court ruled that the CCK had acted properly in seizing equipment. The CCK subsequently stripped Royal Media, the parent company of Citizen, of its broadcast licenses. Citizen's owner appealed that ruling; the appeal was pending at year's end.

In April 2000, during a speech to Parliament, Julius Sunkuli, the Minister of State in the Office of the President, criticized ethnic vernacular radio stations as being tribal and a detriment to national unity (see Section 5). In August 2000, President Moi's request that the Attorney General draft a law to force radio stations to broadcast only in English or Kiswahili drew negative public reaction, which caused several Government officials to deny that the Government intended to ban vernacular broadcasting. No such law was implemented by year's end.

Representatives of the international media remained free to operate; 120 international correspondents work in Kenya, and approximately 100 media organizations report out of Nairobi without official interference.

A number of publications remained banned, including such works as "The Quotations of Chairman Mao Zedong" and Salman Rushdie's "Satanic Verses."

Sedition is not a ground for censorship of publications; however, the Prohibited Publications Review Board reviews publication bans. Public officials use libel laws to attack publications directly critical of actions by government officials. In October 2000, a ruling in a libel case involving a government minister ordered that

printers and distributors are to be held equally responsible with publishers and authors for libelous content in publications and books. Further interpretation of libel laws and related legislation also has made retail stores equally liable should the material in question be found libelous.

In June President Moi and Nicholas Biwott, Minister for Trade and Industry, sued a former U.S. Ambassador accredited to the country and a bookstore that carried the Ambassador's book for libel over allegations in the book that the President and Biwott were involved in the 1991 murder of Foreign Minister Robert Ouko. In August the President and Biwott successfully blocked The Nation newspaper from publishing excerpts from the book. Also in August, a court ordered The Nation to stop publishing further reports on corruption charges, filed with a regional court, against a company partly owned by one of the President's sons.

The Government does not restrict access to the Internet. There were approximately 20 domestic Internet service providers (ISP's), which generally are privately owned. Internet access was limited only by economic and infrastructural factors, and was fairly widespread in urban areas. Although liberalization of Internet communications continued, Internet access in the country continued to be limited by Telkom. All ISP's are required to use the communications parastatal to connect to the Internet. There were no reports of Telkom interfering with the content of Internet transmissions. Telkom was slated for privatization during the year; however, no action was taken by year's end.

Despite constitutional provisions for free speech, the Government and school administrators continued to limit academic freedom. There were six private universities and six universities owned, subsidized, and administered by the Government. Most post-secondary students attended Government-run institutions, partly because of their lower fees. President Moi, as chancellor of all state universities, appoints the vice chancellors, who manage the institutions under the supervision of the Ministry of Education. A number of student activists have been expelled from universities in recent years because of political activities, and most have been refused readmission. Students claim that the Government interferes in student elections to ensure sympathetic student leaders.

Student protests and riots occurred frequently during the year, and police forcibly dispersed several protests after they became violent, which resulted in injuries.

Fighting between the Orma and Pokomo communities forced 20 schools to close in March (see Section 5).

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government restricts this right in practice. Organizers must notify the local police in advance of planned public meetings; however, authorities continued to disrupt public demonstrations about which the police had been duly informed in advance. Government officials claimed that the organizers lacked authorization to hold public gatherings, although there no longer appeared to be any legal basis for requiring specific authorization. In 2000 President Moi repeated his 1999 statements that government officials should deny "permits" (for public demonstrations) to politicians who use public rallies to abuse other leaders; however, officials have legal authority to cancel planned public gatherings only if there are simultaneous meetings previously scheduled for the same venue, or if there are specific security threats. The President's 2000 statement barring MWM from holding public meetings has been aggressively enforced, although there is no apparent legal basis for this policy (see Sections 1.c. and 1.d.). Moi said that licenses would only be given to registered political parties, and that the Government would ban events by any "lobby groups, some religious organizations, and nongovernmental organizations whose aims and operations were sinister." Government and opposition politicians often threaten political opponents not to attend or organize gatherings in certain constituencies.

Following an opposition rally on April 28 that police earlier had attempted to cancel for "security concerns," police arrested two DP M.P.'s, Maina Kamanda and David Manyara (see Sections 1.d. and 2.a.). Kamanda was charged with treason for allegedly threatening the life of President Moi during a speech at the meeting. Kamanda later was released and the treason charge was dropped; however, he was charged with the lesser offense of "incitement," the same charge on which Manyara was arrested a few days later for a speech he gave at the same rally.

Police forcibly disrupted public assemblies, including some political protest demonstrations (see Sections 1.c. and 1.d.). On July 22 in Kapsabet town, police prevented Michael Wamalwa, FORD/Kenya party leader and presidential candidate, from addressing a gathering and used tear gas to forcibly disperse the crowd (see Section 1.c.). Newspapers quoted police as saying they had acted on "instructions from above;" rally organizers claimed to have notified police in advance as required by law.

Police continued to attempt to prevent and forcibly disrupt rallies by the MWM. On February 4, police beat and arrested James Orengo when he notified them of a planned MWM rally; on February 8, police declared the planned rally illegal, forcibly prevented it, and arrested numerous persons (see Sections 1.c. and 1.d.). Also on February 8, police arrested five persons in Kisumu, where the MWM attempted to hold another rally. On July 7, police beat and arrested Orengo and Wangari Maathai at a rally to commemorate the 10th anniversary of the multiparty movement (see Sections 1.c. and 1.d.). Organizers had notified police in advance and had received public assurances from Marsden Madoka, Minister for Internal Security, that the rally would be allowed. Police claimed to be acting on "new information" and "security concerns."

On October 20, police arrested 71 members of the RPP group, prominent activist Kivutha Kibwana, and members of other NGO's for holding an illegal meeting to commemorate Kenyatta Day (see Sections 1.c. and 1.d.). Police reportedly used tear gas during the arrests and beat some of the detainees. On October 21,

members of the RPP converged on the police station where the detainees were being held to call for their release. Police officers responded with tear gas and beat the RPP members with batons and hockey sticks.

In 2000 President Moi was quoted widely in the press calling for action against the Mungiki cultural and political group, and police disrupted several of the group's meetings and marches during the year (see Sections 1.c. and 2.c.). On April 18, police used tear gas and batons to forcibly disperse a march by Mungiki members in front of Parliament. The Mungiki were protesting the alleged killing by police of one of their members; six persons reportedly were arrested and numerous persons were injured (see Sections 1.c. and 1.d.). During the year, authorities began allowing the Mungiki to hold public meetings without interference; however, in November the police initiated a crackdown and arrested several members of the group, including Mungiki leader Ibrahim Waruinge (see Section 1.d.).

Student protests and riots occurred frequently during the year, and police forcibly dispersed several protests after they became violent, which resulted in injuries.

Violent incidents continued between progovernment supporters and opposition supporters during the year; political parties reportedly use gangs of young followers to harass other parties and to prevent them from holding meetings or events. On May 20, youths, reportedly acting on behalf of KANU, disrupted a rally by hurling gasoline bombs at the stage on which the leader of the official opposition, Mwai Kibaki of the DP, and several other M.P.'s were sitting. No action was taken against the youths by year's end.

The Government continued to use the Societies Act to restrict freedom of association. The act requires that every association be registered or exempted from registration by the Registrar of Societies. Since 1997 the Government has acted on some long-pending applications for political party registration, increasing the number of registered political parties from 23 to 40. However, the Government continued to refuse to reverse its 1994 denial of registration of the Islamic Party of Kenya (IPK), which was involved in a number of violent confrontations with police in 1992. The United Democratic Movement political party has awaited registration since 1998; however, it still was not registered at year's end, and the group that was advocating for its registration largely has disbanded.

The Government continued to criticize publicly and to intimidate NGO's, many of which it accuses of being "subversive" and of working with the opposition to overthrow the Government. The Government NGO Coordination Board under the NGO Act registers NGO's. The Government used this structure to put pressure on the nongovernmental National NGO Council. In 1999 the Office of the President instructed all district governments to monitor NGO's within their districts with a view to ensuring that NGO's either advance government-approved objectives or cease to operate; however, NGO's did not report an increase in government monitoring during the year. President Moi repeatedly attacked NGO's in public speeches throughout the year, saying they were in the pay of foreigners intent on destabilizing the country, but offered no evidence to back these charges.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, while groups generally were allowed to worship freely, the Government at times interfered with other activities by religious groups.

The Government requires religious organizations to register with the Registrar of Societies, which reports to the Office of the Attorney General. The Government allows traditional indigenous religious organizations to register, although many choose not to do so. Once registered religious organizations enjoy tax-free status, and clergy are not subject to duty on purchased goods. Religious organizations generally receive equal treatment from the Government; however, some small splinter groups have found it difficult to register due to their inability to define their status as more than an offshoot of a larger religious organization. The Government has not granted registration to the Tent of the Living God, a small Kikuyu religious group banned during the single party-era; however, with the arrival of a multiparty system in 1992, membership in the Tent of the Living God has greatly diminished. Some members of the group were believed to have joined the Mungiki.

The Government refused to reverse its 1994 denial of registration of the Islamic Party of Kenya (IPK) on the grounds that the IPK was a religious-based party, and had been involved in a number of violent confrontations with police in 1992.

Following the discovery of "cult" killings in Uganda in 2000, William Ruto, Assistant Minister in the Office of the President, said that the Government would crack down on religious groups that endanger the safety of their adherents; however, there was no reported harassment of religious groups, and no action was taken by the end of the year.

In late August, Marsden Madoka, former Minister for Internal Security, reportedly stated that the Government intended to take more than 341 schools, which are mainly under the control of the Presbyterian, Anglican, and Catholic churches, and hand over control to the African Independent Pentecostal Church of Africa (AIPCA). No action had been taken by year's end.

In April the High Court allowed the Buru Buru Church of God in Nairobi to reopen; in June 2000, local authorities blocked entry to the church ostensibly to prevent fighting between rival factions in the church.

Foreign missionary groups of nearly every faith operate in the country. The Government generally has

permitted them to assist the poor and establish schools and hospitals. The missionaries openly promote their religious beliefs and have encountered little resistance; however, some missionary groups expressed concern following the 1999 release of the report of the Presidential Commission of Inquiry into Devil Worship. The Commission's widely publicized report included numerous reports of ritual murder, human sacrifice, and cannibalism, and feats of magic allegedly done by using powers acquired through such acts. It also reported that "Satanists" had infiltrated nonindigenous religious groups and other organizations, making them "doorways" to Satanism. The Commission is no longer functioning, and the Government took no action to follow up on the report.

Practicing witchcraft reportedly is a criminal offense under colonial-era laws; however, persons generally are prosecuted for this offense only in conjunction with some other offense, such as murder. Witchcraft traditionally has been a common explanation for diseases for which the causes were unknown. The practice of witchcraft is understood widely to encompass attempts to harm others not only by magic, but also by conventional means such as poisons. Although many traditional indigenous religions include or accommodate belief in the efficacy of witchcraft, they generally approve of harmful witchcraft only for defensive or retaliatory purposes and purport to offer protection against it.

Muslim leaders continued to charge that the Government is hostile toward Muslims. Muslims complain that non-Muslims receive better treatment when requesting citizenship documents. According to Muslim leaders, government authorities scrutinize more rigorously the identification cards of persons with Muslim surnames and require them to present additional documentation of their citizenship (i.e., birth certificates of parents and, sometimes, grandparents). The Government has singled out the overwhelmingly Muslim ethnic Somalis as the only group whose members are required to carry an additional form of identification to prove citizenship. Ethnic Somalis must produce upon demand their Kenyan identification card and a second identification card verifying screening; both cards are required to apply for a passport. This heightened scrutiny appears to be due to an attempt to deter illegal immigration, rather than due to the religious affiliation of ethnic Somalis. Muslim leaders claim that since the August 1998 bombing of the U.S. Embassy in Nairobi, government discrimination against their community has worsened. Following the September 11 terrorists attacks in the U.S., the immigration office in the predominately Muslim city of Mombasa required that applicants for birth certificates or passports had to include their grandparents' national documents with their applications (see Section 2.d.).

In May Muslims protested the reported allocation of a public plot of land to a private developer in Mombasa. The grounds traditionally have been used for celebrating Islamic events. Following the protests, the Government apparently has ceased developing plans to allocate the land, and the land remained public as of the end of the period covered by this report.

Police forcibly disrupted several meetings of the Mungiki religious and political group during the year (see Section 1.c.).

The Government historically has been unsympathetic to tribal religious groups that have engendered protest movements. The Government frequently harassed and periodically arrested and detained members of the Mungiki, a small, controversial, cultural and political movement based in part on Kikuyu ethnic traditions. Mungiki espouses political views and cultural practices that are controversial to mainstream society (see Sections 1.c., 1.d., and 2.b.). While religion may have played a role in the formation of the group, observers believe that it is not a key characteristic of the group. The Mungiki do not adhere to any single religion and members are free to choose their own religion; the group includes Muslims and Christians. The number of Mungiki members is unknown, but the group has a significant following among the unemployed and other marginalized segments of society. The debate over the rights of the Mungiki to practice their cultural traditions and advance their political agenda is ongoing.

The case of two police officers charged with the 1999 murder of five Muslim worshippers in the Anas Bin Malik mosque in Chai village, near Mombasa, remained pending before the court at year's end (see Section 1.a.).

In August 2000, Father John Anthony Kaiser, a Catholic priest working in the country for more than 30 years, was found dead near Naivasha town. Father Kaiser was a vocal human rights activist and a critic of key members of the Government. Although there was much public speculation to the contrary, an FBI report, released in April, concluded that the evidence collected was most consistent with suicide, and that it was unlikely that Father Kaiser had been murdered. The Catholic Church and some human rights groups have rejected the FBI report and have called for further independent investigation. The Attorney General did not respond to these demands by year's end.

In May the Ufungamano Initiative, a group of Christian, Muslim, and Hindu leaders formed as an alternative process to reform the Constitution, merged with the Parliamentary constitutional review process (see Section 3).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

By law citizens may travel freely within the country, and there were no reported violations of this right. However, police routinely stop vehicles and check vehicles' safety and drivers' documents on roads throughout the country. Many vehicles often are in disrepair, and many drivers often lack required documentation. Police often demand bribes at such checkpoints. Ethnic Somalis must produce upon demand their Kenyan identification card and a second identification card verifying screening; both cards are required to apply for a passport (see Section 2.c.). Following the September 11 terrorists attacks in the U.S., the immigration office in the predominately Muslim city of Mombasa required that applicants for birth certificates or passports had to include their grandparents' national documents with their applications. Sheikh Mohammed Dor, the Secretary

General of the Council of Imams and Preachers, criticized the action as imposing "outrageous restrictions" on the country's Muslims. The Government does not restrict emigration or foreign travel; however, the law requires a woman to obtain her husband's or father's permission to obtain a passport (see Section 5). However, in practice, adult women often are able to circumvent this restriction by claiming to be unmarried. Civil servants and M.P.'s must get government permission for international travel, which generally is granted routinely. Unlike in the previous year, the Government did not deny permission to some government ministers to travel.

On July 28, the Government closed its border with Somalia and banned cross-border trade with Somalia, including air shipments for the second time in 2 years. The Government claimed that it wanted to stop illegal weapons flows; however, the effects of the ban were felt most immediately by traders, other business people, and travelers. President Moi vowed that he would not reopen the border until a new central Somali government is formed. However, on November 1, the Government officially reopened the border with Somalia after it organized a reconciliation conference in Nairobi between the Somali Transitional National Government and the Somali Reconciliation and Restoration Council.

The majority of the estimated 400,000 persons displaced or forced to relocate during the early 1990's because of ethnic violence are believed to have returned to their homes or moved elsewhere; however, some still were waiting to return home at year's end. Many of the rural residents displaced by the violent ethnic clashes in Rift Valley between 1991 and 1993 still have not returned to their homes and remain displaced in urban areas. Some of the several thousand persons displaced by ethnic clashes since then also have not returned to their homes due to fear of renewed violence (see Section 5).

The law does not provide for the granting of refugee or asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, in 1991 the Government drafted legislation to establish a mechanism for granting refugee or asylum status. The drafting committee submitted the legislation to the Attorney General's office for review in 2000; however, no further action was taken by year's end. The United Nations High Commissioner for Refugees (UNHCR) grants refugee status to Somali refugees at the Dadaab camps and to Sudanese refugees arriving at the Kakuma camp. A UNHCR eligibility committee in Nairobi performs a similar function for individuals of other nationalities.

The Government offers first asylum and provided it to the approximately 200,000 refugees registered by UNHCR who lived in official UNHCR camps. An undetermined number of refugees live outside the camps in cities and rural areas. Somalis accounted for approximately 80 percent of the total refugee population, followed by large numbers of Sudanese and a scattered number of other nationalities from across the region. A total of 12,310 refugees, most of whom were Somalis who only were in country for a short period of time, were repatriated during the year, primarily to Somalia and Tanzania. In January more than 2,200 Tanzanians fled to the country from the Indian Ocean islands of Zanzibar and Pemba following political unrest during the year. The majority of the refugees returned to Tanzania in April and May following assurances they would not face charges in Tanzania.

Police performed nighttime sweeps in urban areas to round up illegal immigrants and refugees (see Sections 1.d. and 1.f.).

During the period between 1997 and 1999, the UNHCR, at the direction of the Government, closed 5 refugee camps near the coastal city of Mombasa and relocated more than 7,000 refugees against their wishes to camps near the Somali and Sudanese borders. The Government requires all refugees to reside at designated camps unless granted permission to live elsewhere in the country, primarily to attend higher education, undergo medical treatment, or avoid security threats at the camps. However, many refugees live illegally outside the camps, especially in Nairobi.

Incidents of rape of women and girls in refugee camps continued to occur, especially near the Dadaab camps (see Sections 1.c. and 5). More than 80 percent of such rapes occurred when women and girls collected firewood and building materials outside the camps; however, reported rapes continued to decline during the year.

Acts of violence, including banditry and shootings, occur regularly near the camps. Refugees have been mistreated and abused by citizens of the country and by residents of different refugee camps because of ethnic and religious differences. Inter-clan violence frequently erupts among rival Somali clans at the camps (see Section 5); Somali refugees who marry non-Muslims also may be subjected to abuse by family members.

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

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

The Constitution provides citizens with the right to change their government through free and fair multiparty elections; however, citizens are not fully able to do so. The National Assembly continued to be dominated by the same ruling party, KANU. The December 1997 general elections, despite numerous logistical and other flaws, generally reflected the will of the electorate. The elections were marked by much less violence and intimidation, less fraud, and less overt use of government resources to assist KANU candidates, than the 1992 polls. Due to greater fragmentation, the opposition was perceived widely to pose less of a challenge to Moi's reelection than it had in 1992. Opposition candidates won 60 percent of the vote, but these votes were split among four main and several fringe parties, thereby enabling Moi to win reelection for another 5-year term and giving KANU a narrow majority in the unicameral National Assembly. In June President Moi appointed NDP leader Raila Odinga and three other NDP M.P.'s to his cabinet. KANU and NDP have formed an alliance and are contemplating a full merger. At year's end, KANU and NDP members held 139 of 222 seats in the

unicameral National Assembly.

By-elections were held during the year in several constituencies. In January a by-election in South Mugarango, Nyanza Province, was marred by vote buying, ballot-stuffing, and violence. The incumbent candidate for FORD/Kenya won decisively. Vote buying and violence also marred the by-election on the same day in January in Kapenguria, Rift Valley Province; KANU retained the seat. In July KANU lost a seat in a by-election for the first time when a DP candidate won the seat in Taveta, Coast Province. The by-election generally was perceived to be free of irregularities; however, violence preceding the election resulted in the death of a student. On November 9, a by-election was held in Kilome following the August killing of KANU MP Anthony Ndilinge. The Kilome race was marred by numerous reports of vote buying by all parties, which the chairman of the electoral commission publicly condemned.

At the local level, the President exercises sweeping power over the administrative structure. The President appoints both the powerful provincial and district commissioners and numerous district and village officials. In elections many local officials actively assist the ruling KANU.

At the national level, the Constitution authorizes the President to dissolve the legislature and prohibits debate on issues under consideration by the courts. This prohibition, in conjunction with a ruling by the Speaker of the Assembly that some aspects of the President's conduct are inappropriate topics for parliamentary debate, has limited the scope of deliberation on a number of political issues. M.P.'s are entitled to introduce legislation, but in practice it is generally the Attorney General who does so. The President significantly influences the legislative agenda. However, the National Assembly has the power to hire its own staff and to vote its own budget, despite President Moi's long-expressed opposition to it doing so. In November 2000, the National Assembly passed implementing legislation to establish the Parliamentary Service Commission, which was exercising fully its power to hire staff and establish budget by year's end. In August opposition M.P.'s in the National Assembly successfully blocked a constitutional amendment to establish an independent anti-corruption authority, which was backed by KANU and the President. The opposition claimed that the legislation did not give the proposed authority sufficient independence and objected to an amnesty provision in the legislation.

The Government continued to use both physical beatings and arbitrary arrest and prosecution to harass and intimidate opposition M.P.'s and to restrict their freedom of speech and assembly (see Sections 1.c., 1.d., 1.e., 2.a., and 2.b.). The Government's domination of domestic broadcast media, especially outside major urban centers, continued to restrict severely the ability of opposition politicians to communicate with citizens (see Section 2.a.).

In December 2000, President Moi, acting as chairman of KANU, suspended six M.P.'s for dissent, including Jimmy Angwenyi, Kipkalya Kones, Anthony Kimeto, Cyrus Jirongo, and former Finance Minister Simeon Nyachae. The suspension prevents the M.P.'s from bringing any motions sponsored by their party to Parliament; however, they still can submit motions on their own and participate in all Parliament activities.

Reforms adopted in 1997 addressed the lack of independence of the presidentially appointed Electoral Commission, which oversees elections, by nearly doubling its size to include members nominated by the opposition.

Since 1996 a broad coalition of NGO's and religious organizations has mobilized public opinion in support of a reform of the Constitution to reduce the power of the presidency. In 1997 the National Assembly enacted the Constitution of Kenya Review Act, which was amended in 1998 to create a constitutional review commission to recommend changes in the Constitution. In 1999 the constitutional reform process stalled, when political parties were unable to agree how seats on the commission should be divided among the parties. In December 1999, the National Assembly created a Parliamentary Select Committee to revise the existing act and form a review commission; the Ufungamano Initiative, a church-led group, formed the next day, creating a parallel process (see Section 2.c.). The Government, although critical of the Ufungamano group, permitted it to proceed with its constitutional review process. The Parliament created a separate review commission in November 2000. During the year the Constitution of Kenya Review Commission (CKRC) expanded and in March, following many months of political wrangling and stalled efforts, members of the Ufungamano Initiative agreed to take seats on the CKRC. In May the Ufungamano process merged with the parliamentary process; in June the newly-created Constitutional Review Commission began work. The new Commission is expected to have a draft constitution ready by October 2002.

In July at the start of the CKRC hearings, the President declared that NGO's and churches should not involve themselves with the review process and should not engage in civic education. However, this directive was ignored; the CKRC had accredited several NGO's to conduct civic education on the process by year's end.

The Government and police continued to harass and disrupt meetings of the MWM, an organization backed by a coalition of both opposition and dissident KANU M.P.'s that promotes opposition unity to achieve political and constitutional reform. It is not a political party.

Elected local councils exist, but the executive branch of the central Government has not granted them adequate access to revenue and has restricted their functions. Although rural and municipal councils are authorized by law to provide a wide range of health, education, and infrastructure services, in practice their functions have been reduced to partial oversight of schools, secondary and tertiary roads, markets, and natural resources such as forests. Most councils lack sufficient financial autonomy and revenues to perform adequately even these limited functions.

The percentage of women in government and politics does not correspond to their percentage of the population. Although there are no legal restrictions, traditional attitudes circumscribe the role of women in politics. The National Assembly included six female M.P.'s (one elected and five nominated), down from seven in the last session. The Women's Political Caucus, formed in 1997, continued to lobby over matters of concern to women and to increase the influence of women on government policy. A bill was introduced in 2000 to create a number of parliamentary seats reserved for women; however, no action was taken on the legislation by year's end.

The percentage of minorities in government and politics does not correspond to their percentage of the population. Although the President's Cabinet included persons from many ethnic groups, approximately one-third of the ministers were either Kalenjin or Luhya. At year's end, there were only two ministers from the country's largest ethnic group, the Kikuyu. However, in 1999 President Moi appointed a person affiliated with the Kikuyu ethnic group as Vice President. In July Luos, the fourth largest ethnic group, increased their presence in the Government with the appointment of four NDP M.P.'s, all Luos, to the Cabinet. The President continued to rely on an inner circle of advisors, drawn largely from his Kalenjin ethnic group. There is one nominated M.P. who is of Asian origin.

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

A number of domestic and human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are somewhat cooperative and responsive to their views; however, there were numerous reports that less established NGO's, particularly those in rural areas, were subjected to interference from provincial administrators and security forces. The number of human rights organizations continued to grow. These include NGO's such as the KHRC, the Kenya Antirape Organization, the Legal Advice Center, the Catholic Justice and Peace Commission, the National Council of Churches of Kenya, the Center for Governance and Development, People Against Torture, the Independent Medico-Legal Unit (IMLU), and the Release Political Prisoners pressure group. An array of legal organizations, including the International Commission of Jurists-Kenya, the International Federation of Women Lawyers (FIDA), the Law Society of Kenya, and the Public Law Institute, advocate human rights.

Several NGO's maintain comprehensive files on human rights abuses. A number of attorneys represent the indigent and human rights defendants without compensation, although they can handle only a small percentage of those who need assistance, and are concentrated chiefly in Nairobi and other large cities.

The President has instructed government officials to monitor NGO's carefully, and government officials including the President continued to intimidate, and threatened to disrupt human rights and other organizations and NGO's (see Section 2.b.). According to a 1999 KBC report, President Moi said that he would reveal a list of names of subversive NGO's and their antisocial activities; however, the President did not release such a list during the year, and none was expected.

The Government allowed human rights organizations to witness some autopsies of persons who died in police custody. The Attorney General's Office generally responded in detail to foreign embassies' human rights inquiries.

The KHRC produces a "Quarterly Human Rights Report" (formerly the "Quarterly Repression Report") that catalogs the human rights situation in the country, as well as special reports on pressing human rights problems. The Institute for Education in Democracy and other NGO's monitor elections in cooperation with the Electoral Commission and diplomatic missions.

The 10-member SCHR established in 1996 is empowered to "investigate alleged violations of constitutional freedoms," including abuse of power by public officials. It is tasked with drafting recommendations on human rights problems and providing these to the government agencies under whose purview the problems fall. However, it is subordinate to the Office of the President, its chairman is a longstanding KANU loyalist, and it has received sufficient funds to fill only 8 of its 27 authorized staff positions. Although it had been accused of being relatively inactive in the past, in June the SCHR produced a thorough report on the death of six prisoners from King'ong'o prison in Nyeri (see Section 1.a.). The National Assembly was considering draft legislation, drafted by the Attorney General and the SCHR with the help of NGO's and civil society, that would grant the SCHR greater autonomy and independence; the legislation was pending at year's end.

In 1998 the Parliament passed a resolution to create an Ombudsman's office that would be charged with addressing complaints about inefficiency, corruption, nepotism, and abuse of power by public servants; however, the Attorney General had not drafted a bill to turn the resolution into law by year's end.

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

The Constitution prohibits discrimination on the basis of a person's "race, tribe, place of origin or residence or other local connection, political opinions, color, or creed;" however, government authorities did not enforce effectively many of these provisions. There is credible evidence that the Government sponsored large-scale ethnic violence during the early 1990's, and there were some indications that some government officials have at least tolerated and in some instances instigated ethnic violence on a smaller scale since that time.

Women

Domestic violence against women is a serious and widespread problem. According to the Government, 1,199 cases of rape were reported to the police in Nairobi during the year, compared with 1,148 in 2000. The available statistics probably underreport the number of incidents, as social mores deter women from going outside their families or ethnic groups to report sexual abuse. A study by Kangemi Women Empowerment Centre, a small group based in one of Nairobi's largest low-income communities, claimed that three out of five women in the community were victims of domestic violence, and that one-third of the women had suffered sexual abuse. The study noted that the abused women rarely reported the violations, because they believed perpetrators would not be punished, and no protective or remedial action would be taken. Although the validity of the study is unproven, the basic figures support other published figures and anecdotal evidence.

The law carries penalties of up to life imprisonment for rape, although actual sentences usually are no more than 10 years. The rate of prosecution remains low because of cultural inhibitions against publicly discussing sex, fear of retribution, disinclination of police to intervene in domestic disputes, and unavailability of doctors who otherwise might provide the necessary evidence for conviction. Moreover, wife beating is prevalent and largely condoned by much of society. Traditional culture permits a man to discipline his wife by physical means and is ambivalent about the seriousness of spousal rape. There is no law specifically prohibiting spousal rape. Throughout the year, the media continued to report on violence against women, including widespread spousal abuse.

Since 1994 FIDA has collaborated with the police to stop domestic violence. Police typically view violence against women as a family matter, not a crime. FIDA has trained more than 800 police officers about gender issues.

There continued to be incidents of rape of refugee Somali women at the Dadaab refugee camps (see Section 2.d.). According to the UNHCR, refugee women reported 70 rapes during the first 11 months of the year, compared with 82 rapes in 2000.

Female genital mutilation (FGM), which is condemned widely by international health experts as damaging to both physical and psychological health, is practiced by certain ethnic groups and remains widespread, particularly in rural areas. The press reported severe injuries to several girls from the practice of FGM. According to a December 8 report by the Government and UNICEF, 38 percent of women nationwide have undergone FGM. The percentage of girls undergoing the procedure is as high as 80 to 90 percent in some districts of Eastern, Nyanza, and Rift Valley provinces, according to the women's rights organization Maendeleo Ya Wanawake ("Development of Women" in Swahili). FGM usually is performed at an early age. President Moi has issued two presidential decrees banning FGM, and the Government prohibits government-controlled hospitals and clinics from practicing it. In December the Children's Bill, which bans FGM on girls under the age of 18, was passed and signed into law. In an attempt to end FGM, some members of the Marakwet and Maasai ethnic groups instituted new "no cut" initiation rites for girls entering adulthood. According to statistics compiled by a group of NGO's in Marakwet, only 169 girls were subjected to FGM in 1999, compared with 12,000 girls during the same month in the 4 previous years.

Women experience a wide range of discriminatory practices, limiting their political and economic rights and relegating them to second class citizenship. The Constitution extends equal protection of rights and freedoms to men and women, but only in 1997 was the Constitution amended to include a specific prohibition of discrimination on grounds of gender. However, constitutional provisions allow only males to transmit automatically citizenship to their children. The Government has not passed domestic enabling legislation to implement international conventions on women's rights; however, the Attorney General submitted to Parliament three bills designed to protect women's rights—The Domestic Violence (Family Protection) Bill; The National Commission on Gender and Development Bill; and The Equality Bill—all were pending at year's end. The Task Force on Laws Relating to Women, established by the Attorney General in 1993, has produced a draft report; however, it was not published by year's end.

Prostitution is illegal; however, it is a problem and is perpetuated by poverty. Prostitution has contributed to the spread of HIV/AIDS, which affected approximately 14 percent of the population.

Women continue to face both legal and actual discrimination in other areas. For example, a married woman legally is required to obtain the consent of her husband before obtaining a national identity card or a passport (see Section 2.d.).

The Law of Succession, which governs inheritance rights, provides for equal consideration of male and female children; however, in practice most inheritance problems do not come before the courts. Women often are excluded from inheritance settlements, particularly if married, or given smaller shares than male claimants are. Moreover, a widow cannot be the sole administrator of her husband's estate unless she has her children's consent. Most customary law disadvantages women, particularly in property rights and inheritance. For example, under the customary law of most ethnic groups, a woman cannot inherit land and must live on the land as a guest of males who are relatives by blood or marriage.

Women make up approximately 75 percent of the agricultural work force and have become active in urban small businesses. Nonetheless, the average monthly income of women is approximately two-thirds that of men, and women hold only an estimated 5 percent of land titles. Women have difficulty moving into nontraditional fields, are promoted more slowly than men, and bear the brunt of layoffs. Societal discrimination is most apparent in rural areas.

Maendeleo Ya Wanawake, the nation's best known women's rights and welfare organization, was established

as a nonpolitical NGO during the colonial era, but is aligned closely with the ruling party. A growing number of women's organizations are active in the field of women's rights, including FIDA, the National Council of Women of Kenya, the National Commission on the Status of Women, the Education Center for Women in Democracy, and the League of Kenyan Women Voters.

Children

The system of free education in the early years of the country's independence has given way to a "cost-sharing" education system in which students pay both tuition and other costs. These are a heavy burden on most families. Although the law mandates that schooling be available for all children up through grade 12 and that it be compulsory, there is a very high dropout rate in part because of large educational expenses. The East African Standard newspaper reported in March that 8,000 girls drop out of school each year due to pregnancy. There are an estimated 4 million children between 6 and 14 years of age who are out of school. The legally mandated universal schooling also does not occur in practice because of a shortage of schools. Levels of education for boys and girls differ widely. Although the number of boys and girls in school is roughly equal at the primary level, boys substantially outnumber girls in higher education. Rural families are more reluctant to invest in educating girls than in educating boys, especially at the higher levels. Seventy percent of illiterate persons in the country are female. During the year, corporal punishment of students was banned formally; however, it reportedly did not cease completely in practice.

The health care system for school children, which once provided periodic medical checkups and free milk, is defunct. In December Parliament passed the Children's Bill, which has provisions to ensure children's welfare and provide them with basic rights.

FGM is practiced commonly on girls by certain ethnic groups, particularly in rural areas (see Section 5, Women).

Economic displacement and the spread of HIV/AIDS continued to affect the problem of homeless street children. The number of Nairobi's street children was more than 60,000 in 2000, an estimated 20 percent increase from 1999. These children often are involved in theft, drug trafficking, assault, trespassing, and property damage. According to a 1997 Human Rights Watch report, street children face harassment as well as physical and sexual abuse from the police and within the juvenile justice system. They are held in extremely harsh conditions in crowded police station cells, often without toilets or bedding, with little food, and inadequate supplies (see Section 1.c.). They often are incarcerated with adults and frequently beaten by police.

Child rape and molestation continued. There were frequent press reports of rapes of young girls by middle-aged or older rapists. There were repeated reports of molestation or rape of children by schoolteachers, mostly in rural areas. Legally, a man does not "rape" a girl under age 14 if he has sexual intercourse with her against her will; he commits the lesser offense of "defilement." The penalty for the felony of rape can be life imprisonment, while the penalty for defilement is up to 5 years' imprisonment. Men convicted of rape normally receive prison sentences of between 5 and 20 years, plus several strokes of the cane.

In 2000 teachers at the Top Station Primary School in Kitale allegedly raped several students during the year. In a letter to the Minister of Education, FIDA demanded that the Government fire these teachers. The authorities investigated the allegations and charged one teacher; however, in May 2000, he was acquitted for lack of evidence. The Government reported that the medical reports did not support the charge.

Child prostitution is a major problem in Nairobi and Mombasa, often connected with the tourist trade (see Section 6.d.). Child prostitution has grown considerably due both to economic contraction and to the increase in the number of children orphaned because of the spread of HIV/AIDS.

Unlike in the previous year, there were no reports that children were killed for body parts by persons practicing healing rituals associated with traditional religions.

Child labor, including forced and bonded labor, occurs (see Sections 6.c. and 6.d.).

Persons with Disabilities

Government policies do not discriminate against persons with disabilities in employment, education, or in the provision of other state services; however, persons with disabilities frequently are denied drivers' licenses. There are no mandated provisions of accessibility for persons with disabilities to public buildings or transportation. KTN broadcasts some news programs in sign language. A bill to address problems faced by persons with disabilities was pending before Parliament at year's end. The bill aims to outlaw discrimination against persons with disabilities and to assist them through provisions such as mandatory education for children with disabilities.

In August the African Medical Research Foundation of Kenya (AMREF) released a study entitled "Sexual Abuse of People with Learning Disabilities." According to the study, there is a high prevalence of rape of persons with disabilities; one survey indicated that numerous rapes occur daily in Makeni District in Eastern Province.

Religious Minorities

There generally is a great level of tolerance among religious groups; however, there were a few instances of violence between Christian and Muslim groups, and Muslims continued to perceive themselves treated as second-class citizens in a predominantly Christian country. Inter-marriage between members of Christian denominations is common and interfaith prayer services occur frequently. Inter-marriage between Muslims and Christians, although less frequent, also is socially acceptable, and mosques and Christian churches can be found on the same city blocks.

For years Muslims and Christians have held an open debate over their respective places in society. Each group claims to have a larger number of adherents than is plausible, and some Muslim groups believe that the Government and business communities deliberately have impeded development in predominantly Muslim areas. Some Muslim leaders claim that discrimination against Muslims has resulted in a greater incidence of poverty among Muslims than among other religious groups; however, there is no statistical evidence to support this claim. At times the debate has undermined mutual trust.

In the past, the misuse of authority by mainly Christian security forces in the northeast, which largely is Muslim and in which banditry is widespread, contributed to Muslim mistrust. However, during the year, there was greater inclusion of Muslims in security forces and provincial administrations; for example, a Muslim was appointed Provincial Commissioner in the Northeast Province.

There were a few instances of tension and violence between adherents of different religions. In September Muslim youths were suspected of responsibility for burning down two wooden churches in Isolo. Muslim leaders criticized the attacks and met in an attempt to diffuse tensions and allay concerns of Christians in the area. Police officers did not believe the fire to be religiously motivated.

A number of incidents took place in November and December 2000, when a land dispute led to violence between Muslims and Christians in a densely populated neighborhood in Nairobi. At least one person was killed and numerous persons were injured in the riots. Two days of violent clashes resulted in the burning of several buildings, including a mosque and two churches. Muslim leaders apologized for the violence and clarified that the dispute originated over land and was not religiously motivated. Following the riots, religious leaders on both sides cited police inaction as a reason for the spread of the violence.

Unlike in the previous year, there were no reports of ritual murders associated with aspects of traditional indigenous religions.

Occasionally mobs killed members of their communities on suspicion that they practiced witchcraft; however, there were no statistics available on the number of such deaths during the year. On August 5 in Nyamira, Jethiter Mboga was slashed to death by three of his brothers for "bewitching" their mother; his brothers went into hiding after the murder (see Section 1.a.).

National/Racial/Ethnic Minorities

The country's population is divided into more than 40 ethnic groups, among which there were frequent and credible allegations of discrimination, as well as frequent interethnic violence. In general each ethnic group has a distinct primary language and is concentrated in a distinct region; however, the languages of some groups are very similar to the languages of related ethnic groups. In private business and in the public sector, members of virtually all ethnic groups commonly discriminated in favor of other members of the same group when able to do so. Neighborhoods in large cities tended to be segregated ethnically, although interethnic marriage has become fairly common in urban areas. Political cleavages tended to correlate with ethnic cleavages (see Section 3).

Unofficial results of the 1999 census indicated that the Kikuyu constitute 21 percent of the population, and the Luhya were estimated to constitute 16 percent, the Kalenjin 12 percent, the Luo 11 percent, and the Kamba 10 percent of the population.

Ethnic-regional differences continue to pose obstacles to political and economic liberalization. Members of President Moi's Kalenjin ethnic group (a coalition of nine small ethnic groups) and other traditionally pastoral Nilotic ethnic groups are represented disproportionately and hold key positions in the Government, the ruling KANU party, the GSU, and the Presidential Escort. Many members of these groups appear to believe that economic and political liberalization would be likely to harm their groups, and to favor other groups. The Kikuyu and the closely related Kamba, Meru, and Embu groups make up more than one-third of the country's population; members of these groups also dominate much of private commerce and industry and have tended to support opposition parties since they were legalized in 1992. The Kikuyu, the largest, best-educated, and most prosperous ethnic group, dominated the country under its first president, Jomo Kenyatta, a Kikuyu.

In 1999 a presidential Commission on Ethnic Clashes, a government-appointed panel of three judges formed in 1998, submitted to President Moi its report on the cause of ethnic clashes that occurred in the Rift Valley in 1992 and 1997, the Coast province in 1997, and the areas of Molo and Laikipia in 1998. Many of the hearings were public, and witnesses often directly accused local politicians of abetting the combatants, although they rarely provided other than hearsay evidence. However, key churches and NGO's claim that a number of witnesses were prevented from testifying, especially after, half way through the investigation, the Government replaced the Commission's aggressive prosecutor. The Government still had not released the report or announced that it was taking any formal action on its findings by year's end.

Attacks and revenge counterattacks continued between ethnic groups throughout the country, resulting in an average of 50 to 75 deaths per month (see Section 1.a.). Significant conflict occurred between ethnic Pokots and Marakwets, between Pokots and Turkanas, between Turkanas and Samburus, between Maasais and Kisiis, between Orma and Pokomos, between Boranas and Somalis, and among various Somali clans. Many factors contributed to interethnic conflicts, including the proliferation of guns, the commercialization of traditional cattle rustling, the weakening of state authority, the emergence of local militia leaders, the development of a modern warrior/bandit culture (distinct from the traditional culture), irresponsible local political leadership, shrinking economic prospects for affected groups, a regional drought, and the inability or unwillingness of security forces to stem the violence.

Numerous persons were killed during ethnic fighting between the Kisii and Maasai communities in the southwestern part of the country. On May 9, Maasai raiders shot and killed four Kisii youths. During the weekend of May 12, six Kisii were killed in attacks that some residents claimed were instigated by the police. On July 29, security officers shot and killed a primary school teacher during a fight between Kisii and Maasai youths (see Section 1.a.).

Clashes between the Orma and Pokomo communities in Tana River District in Coast Province also claimed many lives. Twenty schools were closed after 13 persons were killed in 2 weeks of fighting between the communities in March. It was unknown whether the schools had reopened by year's end. In mid-July five people reportedly were killed in fighting that started after Pokomo rivals stoned to death two Orma men.

On August 21, 300 armed Pokot cattle raiders attacked a village in Turkana District; six people reportedly were killed. More than 7,000 livestock were stolen.

Members of the coastal Bajuni, Mijikenda, and Digo communities accused the Government of denying them their rights to land, and of favoring members of inland "up-country" ethnic groups, who migrated to the coast largely during the period when Kenyatta was president.

The Government has singled out the overwhelmingly Muslim ethnic Somalis as the only group whose members are required to carry an additional form of identification to prove that they are citizens. The continued presence of and at times criminal activities by Somali refugees have exacerbated the problems faced by citizens of Somali ethnicity (see Sections 2.c. and 2.d.).

There is widespread resentment among citizens of African ethnicity toward Asians living in the country. The Asian community constitutes between 0.5 and 1 percent of the total population and consists of second and third generation Asians with full citizenship and a smaller body of recent immigrants. Many persons of African descent resent those of Asian descent for their affluence, and for their reluctance to assimilate African culture and to employ blacks, particularly in management positions. They also see Asians as taking jobs and commercial opportunities away from Africans. The involvement of some Asians in corrupt activities along with government officials further fuels popular resentment. Politicians, both opposition and ruling party, from time to time appeal to majority prejudices by attacking Asian citizens, accusing them of exploiting and usurping the natural inheritance of African citizens. Chenge Mbitiru, DP M.P. from Laikipia West, has called Asians "the greatest economic enemies" of the country and in 2000 called for "Kenyans" to isolate "Asians" unless the government acts to constrain them. The M.P. reportedly said that President Moi should consider expelling Asians "or allow the Kenyan people to force them to leave through mass action." However, no action was taken in response to the M.P.'s statements, and he did not make any subsequent similar statements.

Police conducted sweeps for illegal immigrants (see Sections 1.f. and 2.d.).

Section 6 Worker Rights

a. The Right of Association

The law provides that all workers are free to join unions of their choice; however, the Police Act prohibits members of the national police force from joining unions. Workers employed in export processing zone (EPZ) firms and those who work in many small firms face dismissal if they join unions. On December 10, the Labor Commissioner registered the Union of Kenya Civil Servants, which granted civil servants the right to join unions for the first time since 1980. The law provides that as few as seven workers may establish a union, so long as the objectives of the union do not contravene the law and no union is representing the employees in question already.

Unions must apply to and be granted registration by the Government. The Government also may deregister a union, but the Registrar of Trade Unions must give the union 60 days to challenge the deregistration notice. An appeal of the Registrar's final decision may be brought before the High Court.

There were 41 unions representing approximately 600,000 workers, approximately one-third of the country's formal-sector work force. All but 5 of these unions, representing approximately 250,000 workers, are affiliated with the one approved national federation—the Central Organization of Trade Unions (COTU). The largest non-COTU union is the 240,000-member Kenya National Union of Teachers (KNUT). The COTU leadership generally does not pursue workers' rights vigorously; however, most affiliates chose to remain rather than give up its even minimal support. As a result, most union activity takes place at the shop steward level and not at the industrial level where most labor-related decisions are made. This places the average worker at a disadvantage in disputes with management. Many COTU unions evolved into de facto ethnic groupings;

however, this was no longer the case during the year.

The Government created COTU in 1965 as the successor to the Kenya Federation of Labor and the Kenya African Workers' Congress. COTU's constitution gives the President the power to remove COTU's three senior leaders from office and grants nonvoting membership on the executive board to representatives of the Ministry of Labor and of KANU. Although the board is composed of the leadership of affiliated unions, it is common for political parties, especially KANU, to provide funding and other support for the election of senior union officials.

In August Frances Atwoli, the leader of the Agriculture and Plantation Workers Union, was elected Secretary General of COTU. Atwoli, who replaced the incumbent of 15 years, pledged to end corruption within the union and to remove the provisions in COTU's constitution that grant seats on COTU's board to government and ruling party officials.

The law permits workers to strike, provided that 21 days have elapsed following the submission of a written letter to the Minister of Labor. By law members of the military services, police, prison guards, and members of the National Youth Service may not strike. Other civil servants, like their private sector counterparts, can strike following the 21-day notice period (28 days if it is an essential service, such as water, health, education, or air traffic control). During this 21-day period, the Minister may mediate the dispute, nominate an arbitrator, or refer the matter to the Industrial Court, a body of five judges appointed by the President, for binding arbitration. Once a dispute is referred to mediation, factfinding, or arbitration, any subsequent strike is illegal. Moreover, the act gives the Minister of Labor broad discretionary power to determine the legality of any strike.

In past years, the Minister used this power to declare strikes by bank workers and teachers illegal, although the required notice had been given; however, there were no such incidents during the year. In 1997 the KNUT called a nationwide strike, which the Government quickly settled with pay increases of more than 200 percent spread more than 5 years, rather than risk antagonizing the influential teachers before the election. The Government's failure to implement the second of the promised pay hikes resulted in a 1998 KNUT strike, which the Government declared illegal. The strike ended after 15 days when the Government refused to renegotiate. In 2000 Dr. Gitu, the Ministry of Labor's Permanent Secretary, admitted that the Government should not have agreed to pay the 1997 salary package for teachers. The Government and the KNUT remain in sporadic negotiation regarding the implementation of the agreed-upon salaries; however, the contracted pay hikes have not been paid, and relations between the KNUT and the Government continue to be poor.

In 2000, the last year for which statistics are available, there were 41 strikes involving 17,794 workers and resulting in the loss of 51,171 cumulative days of work. Most strikes were due to unpaid wage arrears and involved local government and manufacturing workers. During the year, there were several strikes; most lasted 1 or 2 days, and some involved violence on the part of the strikers, usually in an attempt to keep other workers off the job. There were no reports that strikers were dispersed forcibly.

Workers' rights groups continue to raise the general problem of the Government's harshness towards labor with the International Labor Organization's (ILO) Committee on Freedom of Association. In June the Government inaugurated a tripartite Labor Law Reform Task Force (labor, government, and private sector) to conduct workshops on ILO core labor standards.

The COTU is affiliated internationally with both the Organization of African Trade Union Unity and the International Confederation of Free Trade Unions. Many of its affiliates are linked to international trade secretariats.

b. The Right to Organize and Bargain Collectively

While not having the force of law, the Industrial Relations Charter, executed by the Government, the COTU, and the Federation of Kenya Employers, gives workers the right to engage in legitimate trade union organizational activities. Both the Trade Disputes Act and the charter authorize collective bargaining between unions and employers. Wages and conditions of employment are established in negotiations between unions and management. The Government permits wage increases of up to 100 percent and renegotiation of collective agreements; however, the law allows employers in ailing industries to dismiss workers regardless of the provisions of their collective bargaining agreements. Collective bargaining agreements must be registered with the Industrial Court in order to ensure adherence to these guidelines.

The law prohibits employers from intimidating workers. Employees wrongfully dismissed for union activities can take their cases to the Industrial Court, and many have been awarded damages in the form of back pay--reinstatement is not a common remedy. More often aggrieved workers have found alternative employment in the lengthy period prior to the hearing of their cases.

With the exception of the Factories Act, all labor laws, including the right to organize and bargain collectively, apply in the EPZ's (see Section 6.e.). However, the EPZ Authority and the Government grant many exemptions to applicable laws. For example, the Government waived aspects of the law that prevent women from working in industrial activities at night. In practice workers in EPZ firms may face dismissal if they join unions (see Section 6.a.). In August the Textile and Tailors Union alleged widespread intimidation of workers seeking to unionize at a foreign-owned EPZ firm; however, the employer stated that the union had forged the signatures of workers supporting unionization. The leader of the union was arrested, and the case was pending before the court at year's end.

c. Prohibition of Forced or Compulsory Labor

The Constitution proscribes slavery, servitude, and forced labor; however, under the Chiefs' Authority Act, a local authority can require persons to perform community services in an emergency. The ILO Committee of Experts has found that these and other provisions of the law contravene ILO Conventions 29 and 105 concerning forced labor. The law remains in effect; however, attempts by chiefs to institute arbitrary community service during the year were overruled by the Government. Some observers allege that prison officials use free prison labor for personal profit (see Section 1.c.).

The Constitution prohibits forced and bonded labor by children; however, there reportedly were instances during the year, especially in rural areas, of children being loaned out as workers to pay off family debts.

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

The employment in industry of children under the age of 16 is illegal; however, the law does not apply to the agricultural sector, where approximately 70 percent of the labor force is employed, nor to children serving as apprentices under the terms of the Industrial Training Act. Ministry of Labor officers nominally enforce the minimum age statute, and the Government is making efforts to eliminate child labor, working closely with the COTU and the ILO's International Program for the Elimination of Child Labor. According to an unpublished survey by the Central Bureau of Statistics, there are 1.9 million children who work in the country, 1.4 million of whom are employed full time and 500,000 of whom work while attending school; however, the number of child laborers may be as high as 5 million. The problem has received considerable media attention for several years.

Children often work as domestic servants in private homes. There are many instances of children working in the informal sector, mostly in family businesses. Children usually assist parents on family plots rather than seek employment on their own. However, deteriorating economic conditions and the effects of the HIV/AIDS pandemic have given rise to more child labor in the informal sector, which is difficult to monitor and control. During the year, there were reports of abuse of children serving as domestic employees. A significant number of workers on coffee, sugar, and rice plantations are children, who usually work in family units. In addition a large number of underage children were active in the sex industry (see Section 5) and in the salt harvesting industry along the coast. In view of the high levels of adult unemployment and underemployment, the employment of children in the formal industrial wage sector in violation of the Employment Act is less common but not unknown.

On July 5, Parliament ratified ILO Convention 182 on the worst forms of child labor; implementing regulations were being drafted at year's end. In September the Ministry of Labor created a Child Labor Office under the Directorate of Occupational Health and Safety Services. Many NGO's also are active in this area. An ILO-sponsored COTU program has facilitated the return of 562 child laborers to school and trained 1,100 shop stewards on the prevention of child labor since 1997. An NGO working with COTU and the Agriculture and Plantation Workers Union has facilitated the return of another 962 child laborers to school since 1999.

The law prohibits forced and bonded labor by children; however, there reportedly were instances in which it occurred, primarily in rural areas, as a form of family debt repayment.

e. Acceptable Conditions of Work

The legal minimum wage for blue-collar workers in the wage sector has 12 separate scales, varying by location, age, and skill level; however, in many industries the minimum wage equals the maximum wage. The lowest minimum wage is \$42 (3,288 shillings) per month in the largest urban areas and \$25 (1,535 shillings) in rural areas. Workers covered by a collective bargaining agreement (CBA) generally receive a better wage and benefit package than those not covered, including an average of \$90 (7,303 shillings) per month, a mandated housing allowance of 15 percent, and traditional benefits such as a transport allowance or a "house owner occupier" allowance.

The minimum wage is insufficient to provide a decent standard of living for a worker and family. Most workers relied on second jobs, subsistence farming, informal sector opportunities, or the extended family for additional support.

The law limits the normal workweek to 52 hours, although nighttime employees may be employed for up to 60 hours per week. Some categories of workers have a shorter workweek. As is the case with respect to minimum wage limitations, the law specifically excludes agricultural workers. An employee in the nonagricultural sector is entitled to 1 rest day per week. There also are provisions for 21 days of annual leave and sick leave. The law also provides that the total hours worked (regular time plus overtime) in any 2-week period for night workers not exceed 144 hours; the limit is 120 hours for other workers. The Ministry of Labor is responsible for enforcing these regulations, and there were few reports of violations. Workers in some enterprises claimed that employers forced them to work extra hours without overtime pay. Foreign workers are covered by the same legislation and work rules as citizens.

The Factories Act sets forth detailed health and safety standards; however, a 1990 decree by the Minister of Finance excludes EPZ's from the Act's provisions (see Section 6.b.). The Ministry of Labor's Directorate of Occupational Health and Safety Services (DOHSS) have the authority to inspect factories and work sites; however, the DOHSS lacks statutory authority to inspect factories in the EPZ's. Labor and NGO's continued to criticize health and safety conditions in the EPZ's.

The 65 DOHSS health and safety inspectors may issue notices enjoining employers from practices or activities that involve a risk of serious personal injury. Such notices can be appealed to the Factories Appeals Court, a body of four members, one of whom must be a High Court judge. The number of factory inspections has increased significantly since 1992. The law stipulates that factories that employ at least 20 persons have a health and safety committee with representation from workers. However, according to the Government, less than half of even the very largest factories have instituted health and safety committees. Workers are not forced by law to remain in hazardous conditions; however, many would be reluctant to remove themselves because of the high unemployment problem and the resulting risk of loss of their job.

The law protects both legal and illegal foreign workers.

f. Trafficking in Persons

Although there are no laws that specifically prohibit trafficking in persons, there are applicable laws against kidnaping and abduction that potentially could be used to prosecute traffickers. In January authorities arrested and deported six Sudanese on suspicion of running an operation to smuggle Kenyans to the Middle East for work. In previous years, there were unverified reports that citizens were trafficked to Saudi Arabia under the guise of employment opportunities, and that South Asians were trafficked into the country to work in sweatshops. In 1999 the People newspaper published an article about the experiences of several Kenyan women who had been misled into accepting jobs in the Middle East, only to work in what they described as "modern slavery."

The Government does not have any programs that specifically target trafficking; however, several NGO's provide service to persons who may have been victims of trafficking.

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