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Kenya

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Kenya is a republic dominated by a strong presidency. President Daniel Arap Moi, who has led the Kenya Africa 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 office in consequence of an election, and KANU has controlled both the presidency and the national legislature continuously, although other parties were illegal only from 1982 to 1991. KANU again won a majority in the 1997 legislative elections and at year's end, KANU members held 118 of 222 seats in the unicameral National Assembly. While there were numerous flaws in the 1997 elections, observers concluded that the vote broadly reflected the popular will. 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 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. Members of the security forces, especially the police, continued to commit serious human rights abuses.

The large agricultural sector provides food for local consumption, substantial exports of tea, coffee, cut flowers, and vegetables, and approximately 70 percent of total employment. 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 second only to tea exports as the largest single source of foreign exchange. Major international financial institutions renewed nonproject assistance during the year, which had been suspended in 1997 due to widespread government corruption associated with a lack of transparency and accountability; however, by year's end the disbursement of some assistance was suspended due to the Government's inability to meet agreed conditions. During the year, annual per capita gross domestic product remained virtually unchanged in real terms, at approximately \$279. The spread of HIV/AIDS, which was estimated to have infected about 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 was poor, and although there were improvements in some areas, serious problems remained. 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 arbitrarily arrested and detained persons, including journalists. The Government arrested and prosecuted a number of police officers for abuses; however, most police who perpetrated 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, the Government significantly reduced its domination of the domestic broadcast media. The Government repeatedly restricted freedom of assembly, and police increasingly disrupted public meetings, used force to disperse demonstrators and protesters, and harassed and arbitrarily detained political dissidents, including opposition party legislators. The Government at times interfered with the activities of religious groups, and limited freedom of movement. The Government restricted freedom of association. The Government continued to limit the independence of its Standing Committee on Human Rights, and the President continued to criticize nongovernmental human rights organizations. 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 the disabled, and discrimination and violence against religious and ethnic minorities remained problems. The Government continued to exacerbate ethnic tensions by discriminating against many ethnic groups; interethnic tensions continued to result in numerous violent conflicts and some deaths. There were reports of a number of ritual murders associated with traditional indigenous religious practices, which contributed to growing public concern about satanism. 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 from neighboring countries also resulted in many deaths.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

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 120 suspected criminals, and another 39 suspects and detainees died while in police custody by year's end. The nongovernmental Kenyan Human Rights Commission (KHRC) reported that police killed 198 persons during the year (compared to 243 persons in 1999), including at least 49 by torture (see Section 1.c.). Police often lacked restraint in employing lethal force, and the Government generally failed to take appropriate action against members of the security forces accused of extrajudicial killings.

On January 1, police attached to the Ng'araria Chief's Camp in Murang'a allegedly beat 10-year old Joseph Ndung'u Nyoike for suspected theft (see Section 1.c.); the boy died after spending the night in prison. District authorities arrested two police officers after autopsy results indicated that Ndung'u died from beatings. The case was under investigation by authorities at year's end. On January 15, police from the Mukuruwei-ini police station allegedly beat to death Philip Machau after he was caught stealing a piece of second-hand clothing (see Section 1.c.). According to press reports, police severely beat Machau despite onlookers' protests; Machau died at the police station that night. An inquest into the case by the Chief Magistrate in Nairobi was ongoing at year's end. On March 23, Philip Kipkoech Kirui, a brother of a nominated local councilor, died after being transferred from prison in Londiani to the local hospital for treatment; allegedly he had been tortured. Five police officers based at the Londiani Police Station, Dickson Liyayi, Peter Chelanga, Isaac Walimbwa, Robert Ombui Onyancha, and Boniface Onyango, were charged with Kirui's killing after a march was held to protest the alleged abuse of Kirui in Londiani. The case was pending in the courts at year's end. On March 24, officers from the Flying Squad (a quick response antitheft unit) shot and killed eight suspected carjackers as they fled from a car in Nairobi; the driver of the vehicle was unharmed. Some human rights observers criticized the officers' use of excessive force during the incident. On March 26, a police officer in Meru reportedly killed Wallace Kiogora. The officer was arrested for Kiogora's murder on March 29. On April 30, there were reports that Sophia Nyaguthii Mbogo, a pregnant 21-year-old woman, died in custody at the Kagio Police Post reportedly after she was beaten by a policeman (see Section 1.c.). No arrests were made in the case; however, an inquest before the Principal Magistrate's Court at Kerugoya was ongoing at year's end. On September 4, 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, there were conflicting reports that the six died of blows to the head and severe beatings after recapture (see Section 1.c.). The Attorney General ordered an investigation into the killings, and the police were investigating the matter at year's end. The Attorney General promised to prosecute the guards if they are suspected of wrongdoing. An inquest into the case was ongoing at year's end.

In April 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. On May 27, members of the Flying Squad allegedly seriously injured two suspected carjackers during arrest. The police brought the unconscious suspects to the City Morgue where the police reportedly shot and killed them. There were no reports of any investigation at year's end. On July 1, police in Nairobi fired on unarmed suspected carjackers at a major traffic circle, killing the driver, Michael Ngigi, and seriously injuring the passenger, George Ngugi. Ngugi, a civil servant who owned the vehicle, reportedly begged police not to shoot before the officers fired at him. Several police officers were arrested; however, no charges were filed against them by year's end. There were reports that one of the officers involved in the incident fled the country.

Police also killed several bystanders while exchanging gunfire with criminals. For example, in early January in East Baringo, police shot and killed 5-year-old Chesortich, when they fired on her family's home. Allegedly the officers suspected that the family was harboring cattle rustlers. In February police fired at suspected robbers who were fleeing from police and seriously wounded a teenaged boy from Maragwa in Central Province (see Section 1.c.).

Some official efforts have been made to investigate and punish police abuses. In August 1999, police killed five Muslim worshipers in the Anas Bin Malik Mosque in Chai village, near Mombasa. Within 1 month of the killing, the Government charged two police officers, Julius Mugambi M'nabere and Stephan Musau Kilonzo, with the killings; they were released on bail pending trial at year's end. In November 1999, a trial began against Justus Munyao Kovu and Gabriel Muendo, two Makuani police officers accused of killing Mwendo Kiema during detention in July 1999. On September 6, Godwin Mukhwana, a member of the Presidential Escort, was convicted of manslaughter and sentenced to 8 years in prison for killing Jamal Abedi and Henry Musyoka, the driver and tout of a passenger van, in December 1998. In December 1998, Ephantus Njagi Nguthi died from injuries that he reportedly received while in custody in Matanya, Laikipia district. Police reportedly had beaten his testicles. Two police officers, Christopher Mugeru and Muiruri (who died before year's end), were arrested in the case. Three Flying Squad officers, Isaiah Muoki Musyoka, Kenneth Kaunda Obiero, and Andrew Kimungetich Koros were found guilty of manslaughter and sentenced to 15 years imprisonment for the July 1998 killing of James Odhiambo. On June 29, the High Court sentenced police constable Felix Nthiwa Munyao to life in prison for beating his wife to death in July 1998. Munyao beat his wife so severely that she went into a coma and died 5 months later. The case was publicized widely because the police refused to charge Munyao with a crime until his wife had died. On June 7, police officers Jackson Parsalach and Austine Kabarayo were found guilty of manslaughter and sentenced to 2 1/2 years imprisonment for the death in custody of 60-year-old

Job Cherutich; police constables Michael Chebon Chelimo and Chebon were acquitted. In December an inquest was completed into the January 1997 death of Catholic lay brother Larry Timmons in Njoro, which concluded that a police officer should be prosecuted for the killing; the status of the prosecution was not known at year's end. In May a court in Nairobi sentenced to death police constable Martin Kimeu for the November 1995 murder of a petty theft suspect, Kennedy Omondi Omolo, whom he shot and killed while in custody.

There were no effective police investigations into many cases of killings by members of the security forces. 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.

There were no reported investigations into the following 1999 cases during the year: The September killing of Mwanzia Mutkuku, who was killed when police opened fire on the night club below his apartment; the September killings of two armed men at a bank in Nairobi; the July killings of Peter Kariuki, Jacob Anaseti, and Ramadhani Barula while in police custody; the June killings of Victor Polo and Vincent Odhiambo, two suspected robbers; the April killing of Ahluwalia Subir Ahluwalia; the February killing of Elijah Kimani Mwaura, who allegedly was tortured and beaten to death while in police custody; the March killing of Ibrahim Kullow Hussein; the February killing of David Muragi, a grammar school student, who died after a night in police custody where he allegedly was beaten; and the January killing of two rice farmers in Mwea.

There were no reported investigations into the following 1998 cases during the year: The police shooting death of Simon Githinji Kigera, also a policeman, in Nairobi—police maintain they shot in self defense; the killing of Vincent Nyumba Kiema due to a police beating; the killing of Sheik Mohammad Yahyah, who was tortured by army personnel; the killing of Muthoka Mukele after he apparently was beaten in police custody; and the killing of Alfred Kang'ethe after he was beaten by the Uthiru police.

Several 1998 cases of extrajudicial killings remained unresolved at year's end. Police continued to investigate the June 1998 shooting death of Pastor Simeon Kiti Mwangoma (or Mwangalee) by Kilifi police, but took no further action during the year; police maintain Mwangoma was the leader of a notorious gang. Army officer Aden Almi and police officers Faneis Malaba Mbiya and Kennedy Bitange faced charges of murder in connection with the death in police custody in Garissa of Ali Hussein Ali; the High Court in Nairobi is scheduled to hear the case in March 2001. Kitui authorities charged assistant chief Simeon Mwandinga and four other persons with inciting or participating in the 1998 mob killing of Kamwila Kamungu. Two persons were sentenced to 3 years' imprisonment; Mwandinga and two other persons were acquitted. Another assistant chief, Josephine Matalu, was acquitted of instigating the 1998 beating death of Kiema Mwisuve. The trial of the suspects in the 1998 murder of Seth Sendashonga was ongoing at year's end.

A hearing before the Senior Resident Magistrate in Kitale in the 1997 deaths in police custody of Moses Macharia Gicheru and Lomurodo Amodoi was scheduled for early 2001.

On August 24, Father John Anthony Kaiser, a Catholic priest working in the country for over 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. The investigation was ongoing at year's end; there are no known suspects.

On November 30 and December 1, Muslim worshippers and local traders fought over land surrounding a mosque in a residential neighborhood in Nairobi, resulting in the deaths of four persons and numerous injuries (see Sections 1.c. and 2.c.).

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 658 deaths in prisons during the first 10 months of the year. On June 10 and 11, inmates at Rumuruti GK Prison in Laikipia District rioted over a food shortage, which resulted in the death of one prisoner (see Section 1.c.).

Mob violence increased during the year, which observers believe may have been associated with a continuously high crime rate. According to the KHRC, 138 persons were killed in mob violence during the year. The Government recorded 240 deaths due to 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 cover for personal vengeance under the guise of "mob justice." According to media reports, on March 26 in Juja (Central Province), parishioners on their way to mass stoned to death two carjackers who were attempting to steal a fellow parishioner's automobile. No arrests were made in the case. On July 16, villagers in Munyu, Thika (Central Province), burned to death five teenaged boys, Walter Midamba, Juma Musyimi, Julius Nduati, Ibrahim Mburu, and Maina, on suspicion of theft. The five had been caught running through the yard of a man whose home had been robbed the previous week. In October President Moi advised citizens to rely on the police, not vigilantism, to deal with suspects.

Occasionally mobs killed members of their communities on suspicion that they practiced witchcraft (see Sections 2.c. and 5); however, there were no known statistics about the number of deaths during the year. On October 3, a mob of residents of Nairobi's Kariobangi North neighborhood lynched three suspected child abductors (believed to be devil worshipers), including a grandfather who was walking with his grandchild (see Section 5). In late October in Kisii, police intervened to block villagers from killing seven suspected witches. Also in October, the press reported that villagers burned alive a suspected sorcerer in Kimburini.

Interethnic violence in rural areas continued to cause numerous deaths (see Section 5).

There were several incidents during the year in which persons were killed during interethnic disputes; some of these disputes crossed into the country from neighboring countries (see Section 2.d.).

In late November, 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.

The Oromo Liberation Front (OLF), an Ethiopian rebel group, reportedly has laid landmines in northern areas of the country near the Ethiopian border; however, there were no reports of any deaths or injuries during the year.

b. Disappearance

There were no reported cases of politically motivated or other 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 as methods of interrogation and to punish both pretrial detainees and convicted prisoners. Although police authorities periodically issue directives against the use of torture by police, the problem persists. Human rights organizations and the press highlighted scores of 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 (see Section 1.a.).

There were numerous allegations of police use of excessive force and torture. The KHRC recorded 157 cases of police brutality during the year. Detainees routinely claimed that they had been tortured, making it difficult to separate real from fabricated incidents. On January 1, police attached to the Ng'araria Chief's Camp in Murang'a allegedly beat 10-year-old Joseph Ndung'u Nyoike for suspected theft; the boy died after spending the night in prison (see Section 1.a.). On January 15, police from the Mukuruwei-ini police station allegedly beat to death Philip Machau after he was caught stealing a piece of second-hand clothing (see Section 1.a.). In mid-January police in Kapsabet allegedly tortured William Tanui for 5 days while he was detained for illegally transporting maize. There was no known action taken against the police by year's end. In February police fired at suspected robbers who were fleeing from police and seriously wounded a teenaged boy from Maragwa, Central Province (see Section 1.a.). On February 5, in Nyahururu, Laikipia District, Mose Wambugu, a plainclothes police officer from the Special Crime Prevention Unit, reportedly shot Miriam Wamboi in the head after she refused the officer's demands for sex. Wamboi was in a coma for a month following the shooting and the bullet remains lodged in her brain. On February 6, Wambugu was arrested and remained in detention pending a trial at year's end. In April police beat and arrested Mohammed Sheikh, a journalist for the People (see Sections 1.d. and 2.a.). On April 30, there were reports that Sophia Nyaguthii Mbogo, a pregnant 21-year-old woman, died in custody at the Kagio Police Post (see Section 1.a.). A newspaper article claimed that autopsy results concluded that she died from internal bleeding due to "superficial" bruises. A cellmate of Mbogo's told reporters that she saw a Kagio policeman by the name of Kaundu enter Mbogo's cell and beat her head with a club. On May 9, police officers Charles King'ori and Wilson Kinyanjui from the Makuani Police Station allegedly undressed Charles Muteti Mulwa, bound his hands and legs, and beat his testicles. A doctor from the Ministry of Health told reporters that Mulwa suffered from twisted testicles and cigarette burns on his feet. King'ori and Kinyanjui were charged with assault and their cases were pending before the Makindu Principal Magistrate at year's end; it was unknown whether they were in detention or released on bail. 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. On May 28, 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 October 1999, police had arrested and detained Njeri in prison for 5 months before the courts acquitted her of charges of running a group of carjackers. On September 4, 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 they were disfigured beyond recognition. The Attorney General ordered an inquest into the killings, and the police were investigating the matter at year's end. The Attorney General promised to prosecute the guards if they are suspected of wrongdoing. On December 30, police chased and beat Betty Dindi, a journalist for The Nation, who was covering a shareholders meeting of Mbo-I-Kimati, a land-owning firm, which had been banned by police (see Sections 2.a. and 2.b.).

In September a magistrate in Nakuru granted the request of six army officers, Nahashoon Kili, Moses Kiprotich, John Masai, Joseph Tanui, Henry Buinei, and Tito Rono, to pursue charges of torture against members of the 66th Artillery Battalion. The six had been held for 6 months on suspicion of mutiny in the first half of the year. The case was pending at year's end.

According to organizations that work with street children, police also beat and abuse street children (see Section 5). The WEMA Street Girls Center pressed charges against two Mombasa police officers, Mwingi Chula and Peter Ndwiga, who were arrested for raping a 13-year-old street girl in May 1999. Hearings on the case began on December 22.

Police repeatedly used excessive force and beat persons when breaking up demonstrations (see Sections 2.b. and 6.a.). On February 28, police in Nanyuki disrupted a public civic education play by a theater group (see Sections 1.d. and 2.b.). According to the production organizers, the Centre for Governance and Development (CGD), police disrupted the play and beat several persons in the audience. On December 17, 100 riot police used tear gas and batons to forcibly disperse a march headed by 5 M.P.'s, including James Orengo, injuring numerous persons (see Section 2.b.).

Following President Moi's December 8 ban on all future rallies by the Muungano wa Mageuzi (Movement for Change) (see Sections 1.d., 2.a., 2.b., and 3), police prevented or forcibly dispersed all rallies held by the group, which resulted in several injuries and arrests.

In early May, 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 July 30, police in Nyeri arrested 10 Mungiki members for holding an illegal assembly, reportedly injuring some of them (see Sections 1.d. and 2.c.).

Police forcibly dispersed several protests after they became violent, injuring some persons (see Section 2.b.). On August 19 in Nairobi, there were several violent incidents between progovernment supporters, opposition supporters, and the police. When progovernment supporters broke up an opposition rally organized by Member of Parliament (M.P.) James Orengo (see Section 2.b.), police intervened, used tear gas, and beat and kicked participants. Police allegedly beat Sammy Mwangi who died from severe head wounds, and injured dozens of persons. Television cameras also broadcast footage of 30 to 40 men outside Parliament searching vehicles, smashing windshields, and attacking an opposition M.P. in view of armed police who did not intervene. One M.P. claimed that he recognized three off-duty policemen in the group present at the Parliament. Rally organizers accused the Government of complicity in the violence. On September 11, antiriot police responded to a wildcat strike by several hundred guard service employees by firing tear gas at the striking guards after they began burning vehicles and attacking passers-by; several persons were injured (see Section 6.a.). On December 13, police forcibly disrupted a meeting held by Kipruto Kirwa, a dissident KANU M.P. (see Section 2.b.). Police fired several shots into the crowd while chasing several persons from the meeting through the village; one person was injured.

Student protests and riots occurred frequently during the year, and police forcibly dispersed several protests after they became violent, which resulted in injuries (see Section 2.b.). On June 12, police forcibly dispersed approximately 200 students who commandeered 2 university buses and attacked the offices of the Nation newspaper. Police did not intervene initially; however, they did so after the students began to set fire to a building. Police arrested at least 21 persons (see Section 1.d.); several persons were injured during the incident.

There were several violent incidents during the elections to the Kenya Tea Development Authority's Board of Directors (the cooperative which represents the country's 45 tea factories). On June 20, in Gatundu North Province, during fighting between police and farmers boycotting the elections at the Mataara tea center, police shot and killed two farmers and injured several others (see Section 1.a.). Later that evening, armed farmers in Mataara killed a local policeman and seriously injured several other police officers apparently in retaliation. On June 21, during fighting between farmers and police in Guchu District, police shot three farmers and dozens of others were injured.

On June 21, 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. On June 22, President Moi ordered police to stop using live ammunition when quelling riots. It was unclear if Moi's pronouncement had any effect on police behavior by year's end.

During the year, the Government investigated some allegations of police use of excessive force and torture, and prosecuted several police officers. According to the Government, two police officers were charged and sentenced during the year, and the Government recorded only two reported cases of torture during that same period. In May authorities disbanded a special squad of 30 police officers attached to the CID because they allegedly were involved in numerous robberies, carjackings, and killings. There were no reports that members of the squad, reportedly code-named Alfa Romeo, were prosecuted by year's end due to lack of evidence against them.

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 September case of Geoffrey Mbutia Nduati, who allegedly was attacked by dogs in police custody; the May case of residents of Balessa and El Hadi, who were beaten or tortured by security forces; the April case of Duncan Ndweya, a CID officer, who was tortured by the Flying Squad; the April case of M.P. James Orengo, who police beat and arrested while he spoke publicly in Nyanza province; the February case of Peter Macendu who was whipped and beaten unconscious by policemen in Kerugoya; the January case in which police beat a crowd protesting the results of the National Assembly by-election in Eastern Province; the January case of Jeremiah Kasuku, who was assaulted and detained illegally in Keiyani; 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.

Marches and symposiums marked the beginning of the U.N. International Week in Support of Victims of Torture on June 22, which generated much discussion of torture in the press. One daily newspaper, The People, ran a series of articles on torture, featuring anecdotes, discussion of laws, and statistics. On June 23, a group of human rights organizations led by People Against Torture marched in Nairobi to mark the week. On June 26, more than 2,000 persons gathered at a Mau Mau massacre site in Nyeri for masses to commemorate Mau Mau

war victims and other victims of torture. On June 26, in Nairobi, Attorney General Wako was the keynote speaker at a symposium on torture organized by human rights groups.

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, namely during opposition rallies (see Section 2.b.). For example, during incidents from January 13 to 15, supporters of National Development Party (NDP) Raila Odinga reportedly beat and whipped several persons with whips and batons, resulting in numerous injuries. On November 26 in Kisumu, progovernment youths forcibly disrupted a meeting of the Ufungamano commission, a church-led constitutional review commission (see Sections 2.b., 2.c., and 3). The youths threw Molotov cocktails, burned a vehicle, and beat severely several persons.

On November 30 and December 1, Muslim worshippers and local traders fought over land surrounding a mosque in a residential neighborhood in Nairobi, resulting in the deaths of four persons and numerous injuries (see Sections 1.a. and 2.c.).

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, inadequate water, poor diet, substandard bedding, and deficient health care. 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. Prisons do not have resident doctors, and only one prison had a doctor permanently assigned, although the position was vacant during the year. 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 (see Section 1.e.).

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 41,010, 33 percent of which was pretrial detainees. While the prison population increased steadily over the last several years, prison facilities have not. The Government has built only two detention centers since the country became independent in 1963; according to the Government, there are 79 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. According to the Government, 658 prisoners died in jails during the first 10 months of the year, compared with 196 in the first 9 months of 1999, 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.

Men, women, and children officially are kept in separate cells, and unlike in the previous year, 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.

By most accounts, prisoners receive three meals per day; however, there have been reports of food shortages, and reports that senior prison officers misappropriated the meat provided for prisoners. On June 10 and 11, inmates at Rumuruti GK Prison in Laikipia District rioted over a food shortage, which resulted in the death of one prisoner and injuries to dozens of others (see Section 1.a.). A week later at Rumuruti GK prison, according to several media reports, three prisoners died from hunger while working at the institution's farm. Prison officials denied these allegations. During a September 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.

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 (10 to 20 Kenyan cents per day). 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.

Responding to public allegations of unacceptable detention conditions, in January the Government sent a fact-finding team to Kodiaga Prison, which found that prison conditions were acceptable. On January 30, Commissioner of Prisons Edward Lokopoyit dismissed allegations of widespread torture in prisons; however, press reports continue to highlight the substandard conditions in the prisons. On September 19, the Attorney General said publicly that some prisons were "unfit for humans." The following day, the Nyeri District Commissioner decried poor prison conditions countrywide.

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.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. In July foreign diplomatic officials visited Kimiti Maximum Security Prison and Langata Women's Prison. In March the U.N. Special Rapporteur for Torture Nigel 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 shall 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. For example, Michael Owour, on remand at Kamiti Prison and charged by the Kiambu Court with a violent robbery, allegedly had been awaiting trial for 4 years. 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; the case was ongoing at year's end (see Section 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. Family members and attorneys may visit prisoners only at the discretion of the Government. 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.

In the early part of the year, 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 has spent \$250,000 (20 million shillings) on the CSO and is committed to providing \$500,000 (40 million shillings) more in the next fiscal year. There are 11,000 petty offenders participating in the program currently. The program may help alleviate overcrowding; however, there was no indication of any change 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 throughout the year.

Police arrested members of civil society groups and charged them with participating in illegal gatherings (see Section 1.c.). On January 17, President Moi ordered Police Commissioner Philemon Abong'o to arrest those responsible for violent protests against the Parliament-led constitutional review process, namely those protests from January 13 to 15 that resulted in numerous injuries (see Sections 1.c. and 2.b.). On January 18, police arrested M.P. James Orendo on charges that he incited violence regarding the Parliament-led constitutional review process. He was released on bail and a hearing was scheduled for March 27 and 28; this case and several others against Orendo were pending at year's end. On March 30, police in Nakuru arrested and detained 11 activists who were participating in a public gathering to discuss land grievances among the minority Ogiek community (see Section 2.b.). KHRC employees Lumbumba Ondeda, Vincent Musebe, and James Nduko and nine Commission and Citizens Coalition for Constitutional Change (4C's) members were detained in prison for several days awaiting sentencing for holding an illegal gathering. Human rights organizations viewed the arrests as a veiled effort by the Government to prevent civic education exercises throughout the country. The Attorney General subsequently dropped the charges. On April 3, police in Laikipia, allegedly on orders from District Officer Njeru, dispersed a Greenbelt Movement civic education gathering (see Sections 2.a. and 2.b.), and arrested Joseph Kirangathi Njoroge, Esther Wamucii, John Gitonga, and Mwangi Gachie Kamau. The four were charged with assembling in a manner likely to cause a breach of peace, but were released on bail pending trial at year's end. On April 13, police in Nairobi arrested and detained for several days 63 demonstrators, including 6 nuns and 5 clergymen during a march to present a petition to the World Bank offices in Nairobi (see Section 2.b.). The Attorney General later dropped the charges because the police had no case against the demonstrators.

Student protests and riots occurred frequently during the year, and police arrested numerous students responsible for violence during the incidents (see Sections 1.c., 2.a., and 2.b.).

On December 9, police in the Western Province dispersed a Mageuzi rally, arrested and detained several journalists, and injured six persons (see Sections 1.c., 2.a., 2.b., and 3).

In April police arrested and beat Mohammed Sheikh, a journalist for the People, who had been arrested in 1999 for writing "alarming" articles. He was released on bail and his case was pending at year's end. In April police arrested and briefly detained Maneno Mwikwabe, the editor of The Dispatch; he was not charged. Mwikwabe had been arrested in 1998 for writing "alarming" articles, but was released without charge.

On July 30, police in Nyeri arrested 10 Mungiki members, reportedly injuring some of them (see Sections 1.c.

and 2.c.); the Mungiki were charged with illegal assembly.

During the year, police arrested a number of journalists on charges of publishing information "likely to cause alarm to the public" (see Section 2.a.).

On February 15, Johan Wandetto, a journalist for the People, who was arrested in February 1999, received an 18-month jail sentence for writing a report that "risked causing alarm."

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice the judiciary is often corrupt and subject to executive branch influence. 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.

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.

There were some indications of executive interference in the judiciary. 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. On October 9, a Homa Bay court sentenced M.P. Shem Ochuodho to over 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. On October 19, 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.

Judges who ruled against the Government in the past sometimes were punished with transfer or nonrenewal of contracts; however, during the year no retaliatory action against justices was reported. Judges occasionally demonstrated independence.

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 used this authority on a number of occasions to terminate cases against government officials.

In the previous year, the judiciary faced many accusations of corruption. In 1998 the Chief Justice appointed a special judiciary commission chaired by Justice Richard Kwach 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; however, the Judicial Services Commission circulated proposals for a judicial code of conduct in the first half of the year.

There are no 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; 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 is not usually available outside Nairobi or 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 guilt. 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 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. In a 1997 study of the judiciary, the International Bar Association found "a persistent and deliberate misuse of the legal system for the purpose of harassing opponents and critics of the Government." Authorities continued to arrest opposition M.P.'s, journalists, and student leaders 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, often for months or even years.

There were no reported political prisoners during the year.

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 falsely arresting individuals to extract bribes (see Section 1.d.). Unlike in the previous year, there were no reports that Nairobi police searched offices of the media without warrants.

The police continued repeatedly 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 throughout the year (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. Unlike in the previous year, Nairobi police did not search the offices of tabloid publications and nongovernmental organizations (NGO's) without warrants.

Security forces monitored closely the activities of dissidents, following or otherwise harassing them. They employ 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.

According to press reports, in early February, police in Meru burned 300 homes, displacing over 1,000 persons. The residents, chiefly squatters living in makeshift houses, had occupied the land for as long as 10 years. A local councilor and some of the displaced contended that the plots previously were misallocated public land.

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 several existing colonial era 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.). The print media has been relatively independent for decades and since 1992 has multiplied and become more outspoken; there was significant liberalization of electronic media during the year, particularly radio, television, and the Internet. 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 (see Sections 1.c. and 2.b.). Some independent periodicals reported that the business community came under pressure from the Government to refrain from advertising in these magazines, which kept some on the edge of insolvency. 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.

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. Two former weekly newspapers, The Post and the Kenyan Star, did not publish regularly during the year. There also are numerous independent tabloid or "gutter" periodicals, which appear irregularly and are critical highly of the Government. Reporting in these tabloids ran the gamut from revealing insider reports to unsubstantiated rumor mongering.

The Government attempted to intimidate the pro-opposition press with arrests and intimidation, 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. On February 15, Johan Wandetto, a journalist for *The People*, who was arrested in February 1999, received an 18-month prison sentence for writing a report that "risked causing alarm." His story alleged that bandits held up the presidential escort. Wandetto appealed the case and was released on bond pending appeal. Aola Ooko, a correspondent for the *Agence France Presse*, was arrested following a March 9 article in which he fabricated allegations that police in Mombasa had stolen part of a 4.8-ton drug seizure (see Section 1.d.). Simbi Kisumba, Mombasa bureau chief for *The People*, was arrested and faced charges in early March also for publishing an article on seized drugs that allegedly were missing from the police station. In March two writers for the small publication, *Independent*, were arrested and later released after writing an uncomplimentary article about the personal life of the Central Bank Governor (see Section 1.d.). On March 25, police from Eldama Ravine detained *People* reporter Elijah Kinyanjui Maina for several hours after he interviewed local residents about allegations that some of President Moi's livestock were stolen from his Kelelwet farm (see Section 1.d.). Police did not formally charge Maina. In April President Moi reportedly accused the *Nation* newspaper of unfairly attacking him and threatened to sue for slander and libel if necessary; however, no action was taken against the newspaper by year's end. In April police arrested and beat Mohammed Sheikh, a journalist for *The People*, who had been arrested in 1999 for writing "alarming" articles (see Sections 1.c. and 1.d.). He was released on bail and his case was pending at year's end. In April police arrested and briefly detained Maneno Mwikwabe, the editor of *The Dispatch* (see Section 1.d.); he was not charged. Mwikwabe had been arrested in 1998 for writing "alarming" articles, but was released without charge. On December 9, police in Western Province arrested and detained several journalists while forcibly dispersing a Mageuzi rally in Busia (see Sections 1.c., 1.d., 2.b., and 3). On December 30, in a widely publicized incident, police chased and beat Betty Dindi, a journalist for *The Nation*, who was covering a shareholders meeting, which had been banned by police, of Mbo-I-Kimati, a land-owning firm (see Sections 1.c. and 2.b.). The police officers reportedly threatened journalists covering the meeting for "inciting shareholders." Dindi escaped from the police, but later was rebuffed when she went to the police station to register a complaint. The KHRC, the Kenya Union of Journalists, and the Kenya chapter of the International Federation of Women Lawyers (FIDA) condemned the attack on Dindi.

Unlike in the previous year, there were no reports during the year that any publications were refused registration or forced to suspend publication due to government action.

The Government somewhat loosened its control over the electronic broadcast media in urban areas during the year—particularly over radio, the principal news medium for most citizens. There were 12 radio stations operating in Nairobi during the year, compared to 6 in Nairobi and 1 in Mombasa in 1999. The Government controls the Kenya Broadcasting Corporation (KBC), which operates the country's premier radio, broadcast television, and cable television networks, including Metro Television, which began broadcasting to the Nairobi area in September. 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. The Kenya Television Network (KTN), which is owned by KANU supporters, airs news programs with more balanced political coverage. Stellavision is owned by KANU supporters and provides balanced coverage. KTN and Stellavision both began broadcasting in Mombasa during the year. Citizen Radio covers much of the central areas of the country, whereas Citizen TV broadcasts to the Nairobi area. Citizen Radio and TV news programs generally are objective. Family TV and Radio, a Christian broadcasting network, and Nation Television and Radio began broadcasting television and radio in the Nairobi metropolitan area in 1999. Nation Television began broadcasting in Mombasa in August, providing independent media coverage.

The Government continued to delay action on a large number of radio and television license applications throughout most of the year, reflecting the arbitrariness of the broadcast licensing process. 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 September the Government issued a permit to Voice of America (VOA) to broadcast locally and indicated that it would grant a frequency as soon as paperwork is completed; however, there was no progress on this during the year and VOA did not begin broadcasting by year's end. The Ministry for Information, Transport, and Communication has licensed a total of 12 television and 20 radio stations to date, although only 5 private television stations (KTN, Citizen, Family, Nation, and Stellavision) and 9 private radio stations (Citizen, Family, Sayare Rehema, Capital, Nation Radio, Kiss, Baraka, BBC Nairobi, and BBC Mombasa) fully are operational. 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 still was 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. In 1999 the Ministry of Information, Transport, and Communication licensed an Islamic radio station and three Catholic television stations. On May 26, 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. At year's end, the Catholic Church had been assigned regional broadcasting frequencies, but not national frequencies; its petition for national frequencies was not resolved by year's end.

In January the Communications Commission of Kenya (CCK) ordered the shutdown of Citizen Radio and Television, a new broadcast operation, for unpaid licensing fees and improper use of communications equipment. Citizen claimed that the shutdown, which only affected its operations outside Nairobi, was politically motivated. Citizen appealed the order in the courts and continued broadcasting in Nairobi; however, in March the court upheld the CCK's order and Citizen again appealed to the highest court, the Court of Appeal.

In April 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 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.

The KBC remained the only domestic source of current information for most persons outside the Nairobi area. This continued to limit severely the ability of opposition leaders and other critics of the government to communicate with the electorate.

During the 1997 election campaign the Electoral Commission directed that the KBC accord equal treatment to all political parties; however, this directive was not implemented fully. KBC coverage remained heavily 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.

Representatives of the international media remained free to operate, and approximately 120 foreign correspondents of nearly 100 media organizations report out of Nairobi.

The Government does not restrict access to the Internet. There were approximately 20 domestic Internet service providers, which generally are privately owned. Internet access was limited only by economic and infrastructural factors, and was fairly widespread in urban areas.

A total of 79 publications remained banned, including such works as "The Quotations of Chairman Mao Zedong" and Salmon Rushdie's "Satanic Verses." The 1997 reforms eliminated sedition as a ground for censorship of publications, and directed that a board be established to review existing, and future, publication bans. The Prohibited Publications Review Board was established in 1998.

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, due in part to their lower fees. President Moi, as chancellor of all state universities, appoints the vice chancellors, who managed 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. Unlike in the previous year, there were no reports that government security forces followed student leaders.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government restricts the right in practice. The Public Order Act, which the Government used for many years to control public gatherings and to restrict this right, was amended in 1997; the requirement that public meetings be licensed was replaced by the less restrictive requirement that organizers notify the local police in advance of planned public meetings. However, authorities continued repeatedly to disrupt public demonstrations about which organizers duly informed the police in advance; government officials claimed that the organizers lacked authorization to hold public gatherings, whereas there no longer appeared to be any basis in domestic law for requiring specific authorization. In August President Moi repeated his September 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. Cabinet Ministers Shariff Nassir and Francis Lotodo were quoted on several occasions during the year as threatening political opponents if they attended gatherings in the Ministers' constituencies. Lower ranking officials from various political parties also made similar threats against opponents.

Police forcibly disrupted public assemblies, including some political protest demonstrations (see Section 1.c.). On February 28, police disrupted a public civic education play by a theater group and arrested seven members of the group and two persons from the audience on the pretext that they were holding an unlawful assembly and carrying offensive weapons (see Sections 1.c. and 1.d.), a common charge to harass meeting organizers and participants. The organizers argued that such charges were baseless as plays are not governed by the Public Order Act (which requires prior notification) but the Film and Stage Plays Act (which has no prior notification clause). In a letter to Police Commissioner Philemon Abongo following the incident, CGD protested the arrests and claimed that the play was disrupted because of its civic education focus. In December the persons arrested were acquitted and released. On March 25 in Kapsabet, the officer commanding the police station, Gakuo Wanyaga, and riot police attempted to break up a rally organized by KANU M.P. Kipruto Kirwa and fellow M.P. John Sambu. The organizers claimed that they had notified the authorities of the planned meeting as required by law. After Sambu confronted the police and the crowd reportedly began chanting, the police left and allowed the rally to continue. On March 30, police in Nakuru arrested and detained in prison for several days 11 activists who were participating in a public gathering to discuss land grievances among the minority Ogiek community (see Section 1.d.). The Attorney General subsequently dropped the charges. On April 3, police in Laikipia, allegedly on orders from District Officer Njeru, dispersed a Greenbelt Movement civic education gathering, and arrested 4 persons (see Sections 1.d. and 2.a.). On April 13, police in Nairobi arrested and detained for several days 63 demonstrators, including 6 nuns and 5 clergymen during a march to present a petition to the World Bank offices in Nairobi (see Section 2.b.). The group had given prior notice to the police, who permitted them to march peacefully until they reached the World Bank offices. The Attorney General later dropped the charges because the police had no case against the demonstrators. On June 7, police in Molo prevented the KHRC from holding a civic education drive for the Ogiek community at Tinnet Forest

(see Section 5). The police did not allow the KHRC members to enter the community and accused them of failing to obtain clearance from the police to stage a public meeting. A spokesperson for the KHRC claimed the police deliberately prevented the visit in an attempt to deny the Ogiek their rights. On September 30, police in Keiyo disrupted a meeting held by members of the Marichor community, even though organizers had notified police 2 weeks in advance of the event. The Officer Commanding Station Wanyama allegedly claimed that he was acting on orders from higher authorities. On December 17, 100 riot police used tear gas and batons to forcibly disperse a march headed by 5 M.P.'s, including James Orengo; numerous persons were injured and 24 persons were arrested (see Sections 1.c. and 1.d.). On December 30, police disrupted a shareholders meeting of Mbo-I-Kimati, a land-owning firm, which had been banned by police as "illegal" for "security reasons." The meeting was held to choose new directors and discuss a variety of grievances. The police officers reportedly threatened journalists covering the meeting and chased and beat Betty Dindi, a journalist for The Nation (see Sections 1.c. and 2.a.).

Police dispersed or intervened in some public assemblies after they became violent (see Section 1.c.). On January 29, fighting broke out at a rally in Bomet after persons allegedly paid by Assistant Minister Isaac Ruto attacked rival KANU Minister Kipkalya Kones and his supporters. On August 19, progovernment supporters broke up a rally organized by opposition M.P. James Orengo, police intervened, used tear gas, and beat and kicked participants (see Section 1.c.); police simultaneously blocked M.P.'s from leaving Parliament to attend the rally. On December 13, police forcibly disrupted a meeting held by Kipruto Kirwa, a dissident KANU M.P. (see Section 2.b.). Police allegedly sent in a group of 5 to 10 "troublemakers" to interrupt the meeting, then reportedly intervened and fired tear gas into the meeting. Police fired several shots into the crowd while chasing several persons through the village; one person was injured (see Section 1.c.).

On December 8, President Moi ordered the police to prevent all future rallies by the Muungano wa Mageuzi (Movement for Change), an organization backed by a coalition of both opposition and dissident KANU M.P.'s (see Section 3), and to cancel any licenses that already had been issued. 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." On November 11, police in Eldoret used tear gas and batons to forcibly disperse a rally organized by the Mageuzi allegedly because the rally conflicted with another event and needed to be cancelled; several minor injuries were reported. On December 9, police in the Western Province set up roadblocks to prevent M.P.'s from attending a Mageuzi event in Busia, and police forcibly dispersed the rally; six persons were injured and several journalists were arrested and detained (see Sections 1.d. and 2.a.). On December 12, police used tear gas and batons to prevent a Mageuzi rally at the Kamukunji Grounds in Nairobi; several persons suffered minor injuries.

In early May, President Moi was quoted widely in the press calling for action against the Mungiki religious and political group and police disrupted several of the group's meetings during the year (see Section 1.c.). On February 26, police in Thika forcibly dispersed a rally held by the Alliance of Patriotic Youth, a young group with strong ties to members of the Mungiki group, because the group reportedly had not given 3 days notice of their intent to rally. Police used tear gas and truncheons to disperse the crowd, which resulted in several injuries (see Section 1.c.). On May 14, a few hundred Mungiki reportedly were praying at Ngomongo grounds in Nairobi when police broke up the meeting and arrested at least three Mungiki members. On May 21, police in Embu allegedly blocked a Mungiki recruitment meeting. On September 17, police in Nairobi disrupted a Mungiki prayer gathering and then fought with Mungiki members, slum dwellers, and street children; there were no reported injuries.

Student protests and riots occurred frequently during the year, and police forcibly dispersed several protests after they became violent, which resulted in injuries (see Section 1.c.).

There were several violent incidents between progovernment supporters and opposition supporters during the year. On January 13, supporters of National Development Party (NDP) Chairman Ralla Odinga attacked opposition M.P.'s James Orengo and Shem Ochuodho during a march against the Parliament-led constitutional review process. Supporters of the Parliament process reportedly beat several persons with whips and batons (see Section 1.c.). On January 14 and 15, students loyal to Orengo again marched in Nairobi to protest against the Parliament-led constitutional review process. Fighting between the students and pro-KANU and supporters of the Parliament process resulted in numerous injuries (see Section 1.c.). On June 22, armed youths disrupted meetings of the National Convention Executive Council (NCEC) in Kisumu, reportedly injuring several NCEC delegates. The incidents did not gain national media attention until NCEC leaders blamed M.P. Ralla Odinga, Chairman of the NDP, and the Provincial Administration for instigating the violence; Ralla denied the accusations. On November 26, progovernment youths forcibly disrupted a meeting of the Ufungamano Initiative in Kisumu (see Sections 2.c. and 3). The youths threw Molotov cocktails, burned a vehicle, and beat severely several persons (see Section 1.c.). Police did not intervene.

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. For years after opposition parties again were legalized in 1992, the Government refused to act on a number of political party registration applications. However, since the enactment of reform legislation in 1997, the Government has acted on some long-pending applications, 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 (see Sections 2.c. and 5). The United Democratic Movement political party has awaited registration since 1998, and continued to pursue its case in the courts; however, it still was not registered at year's end. In 1998 the Saba Saba Asili party postponed its petition for registration, because it believed that the Government would deny its application.

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 1997 the Board directed the Council to compile a list of "political NGO's," presumably to carry out President Moi's threat to deregister all "political NGO's," but the Council refused. In March 1999, President Moi publicly stated that NGO's were trying to destabilize the country by channeling foreign funds to antigovernment student and labor organizations and using foreign funds to organize seditious mass protests. In April 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.

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, the Tent of the Living God has virtually disappeared.

Despite 1997 legal reforms and the subsequent registration of a large number of political parties, the Government refused to reverse its 1994 denial of registration of the Islamic Party of Kenya (IPK) on the grounds that the IPK had been involved in a number of violent confrontations with police in 1992, and because the party refused to drop the Islamic title from its party name.

On April 3, William Ruto, Assistant Minister in the Office of the President, said following the discovery of "cult" killings in Uganda that the Government would crack down on religious groups that endanger the safety of their adherents; however, other than the Mungiki, there was no reported harassment of religious groups.

On June 25, local authorities in Nairobi blocked entry to the Buru Buru Church of God ostensibly to prevent renewed fighting between rival factions in the Church, which had resulted in numerous injuries among worshippers 2 weeks earlier. The Church remained closed at year's end.

Foreign missionary groups of nearly every faith operate in the country. The Government generally has permitted them to assist the poor and found of 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 including Jehovah's Witnesses, the Church of Jesus Christ of Latter-Day Saints (Mormons), and the Church of Christ Scientist (Christian Scientists), as well as other organizations, including the Masonic Order (Freemasons) and the Theosophical Society, making them "doorways" to Satanism. Most members of the Commission were senior members of mainline Christian churches; a deputy director of the Criminal Investigations Department (CID) also served on the Commission. Fears of devil worship persisted during the year. In September police in Nairobi reportedly alerted residents to a growing number of ritual murders after a 7-year-old girl was found murdered. A woman was arrested a week earlier for allegedly abducting a child.

Purporting to practice 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 of which the causes were unknown. 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. The practice of witchcraft is widely understood to encompass attempts to harm others not only by magic, but also by covert means of established efficacy such as poisons.

Muslim leaders continued to charge that the Government is hostile toward Muslims. Muslims complain that non-Muslims receive better treatment when applying for proof of citizenship. According to Muslim leaders, government authorities more rigorously scrutinize 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 that they are citizens. Ethnic Somalis must produce upon demand their Kenyan identification card and a second identification card verifying screening. Both cards also are required in order to apply for a passport. Although this heightened scrutiny originated as an attempt to deter illegal immigration, a senior official of the Supreme Council of Kenya Muslims alleged that it increasingly affects all Muslims.

The Government at times disrupted public meetings that religious groups organized or participated in, sometimes for political reasons. For example, on April 3, police in Laikipia broke up a gathering in a Catholic church hall, on the grounds that the participants were former freedom fighters holding a secret meeting. The police arrested four men and charged them with holding an illegal meeting (see Sections 1.d. and 2.b.).

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, predominately Kikuyu traditional religious group with strong political motivations. The group originated as an offshoot of the Tent of the Living God religious group, and many of its leaders reportedly have converted to Islam. On at least one occasion, police fired upon members of the Mungiki while attempting to disrupt their prayer meeting. Members of the Mungiki most commonly are charged with holding illegal assemblies and possessing offensive weapons. Mutual mistrust between Mungiki and police authorities aggravated the situation, and in May President Moi was quoted widely in the press calling for a crackdown on the Mungiki. On April 23, a few hundred members of the Mungiki approached the Nyahururu police station to demand the release of three members of the group. Police responded with force, including the use of rubber bullets and live ammunition, injuring dozens of persons and sending eight persons to the hospital with gunshot wounds (see Section 1.c.). Police later removed two of the wounded from their hospital beds and detained them, an act that hospital authorities strongly criticized (see Section 1.d.). On May 14, police reportedly broke up a prayer gathering at Ngomongo grounds in Nairobi attended by a few hundred Mungiki and arrested at least three adherents (see Sections 1.d. and 2.b.). On May 21, police in Embu allegedly broke up a Mungiki recruitment meeting. On June 25, police shot and injured 5 members of the Mungiki and arrested 23 others while attempting to disrupt a prayer meeting (see Sections 1.c., 1.d., and 2.b.). The Mungiki members responded to the police attempts to disrupt their meeting by throwing stones at the police. On July 8, police in Nairobi fought with Mungiki members as they gathered for an impromptu meeting. On July 30, police in Nyeri arrested 10 Mungiki members for holding an illegal gathering, reportedly injuring some of them (see Section 1.d.). On September 17, police in Nairobi broke up a Mungiki prayer gathering (see Sections 1.c. and 2.b.), and then fought with Mungiki members, slum dwellers, and street children; there were no reported injuries. The debate over the rights of the Mungiki to practice their traditional religion and advance their political agenda is ongoing. The Mungiki group allegedly promotes female genital mutilation (FGM) and the taking of illegal oaths against the Government. It remains unclear whether the Mungiki violate the law in practicing their religion.

On August 13, 1999, police killed five Muslim worshipers in an altercation in the Anas Bin Malik mosque in Chai village, near Mombasa. The Government charged two police officers, Julius Mugambi M'Nabere and Stephan Musau Kilonzo, with murder. The case was pending before the court at year's end (see Section 1.a.).

On August 24, Father John Anthony Kaiser, a Catholic priest working in the country for over 30 years, was found dead near Naivasha town (see Section 1.a.). Father Kaiser was a vocal human rights activist and a critic of key members of the Government. The investigation was ongoing at year's end; there are no known suspects.

In December 1999, a group of Christian, Muslim, and Hindu leaders formed an alternative process to reform the Constitution, the Ufungamano Initiative, which opposes the Parliament-led process (see Section 3). The Government, although critical of the Ufungamano group, permitted it to proceed with its constitutional review process. However, a Minister in the Office of the President, Shariff Nassir, and other ruling party politicians, warned of possible confrontation if the Ufungamano Commission attempted to collect citizen views in their constituencies.

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.

The Government does not restrict emigration or foreign travel; however, the law requires a woman to obtain her husband's or father's permission in order 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; however, during several legislative periods during the year, the Government denied permission to some government Ministers to travel because the Ministers were in session.

In November the Government deported approximately 100 Ugandans who were attending a conference in Nairobi, because of fears of contagion due to the Ebola outbreak in Uganda.

The majority of an 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 in 1991-93 still have not returned to their homes and remain displaced in urban areas. Some of the several thousand persons displaced by ethnic clashes in Rift Valley in 1998, and in the Pokot-Marakwet region throughout 1999, have not returned to their homes due to fear of renewed violence (see Section 5).

In December the Government permitted the return of approximately 4,500 Kenyan refugees from Ethiopia pursuant to an agreement with the UNHCR and Ethiopian Government. Government officials had refused to allow their return in November 1999, ostensibly because of concerns over the possible effect of their return on ethnic tensions in their areas of origin.

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. During the year, the drafting committee submitted the legislation to the Attorney General's office for review; however, no further action was taken by year's end. The 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 the U.N. High Commissioner for Refugees (UNHCR), who lived in official UNHCR camps. An undetermined number of refugees live outside the camps in cities and rural areas. Somalis accounted for about 80 percent of the total refugee population, followed by large numbers of Sudanese and a scattered number of other nationalities from across the region. Approximately 2,000 refugees, mostly of Somali and Ethiopian background, were repatriated during the year. Police performed nighttime sweeps in urban areas to round up illegal immigrants and refugees (see Section 1.d.).

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 over 7,000 refugees against their wishes to camps near the Somali and Sudanese borders. The Government requires all refugees to reside at these 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.

The border with Somalia remained officially closed until April 12; however, many Somalis continued to arrive overland from Somalia to the camps near Dadaab during the closure.

There were numerous incidents during the year in which persons were killed during interethnic disputes; some of which crossed the country's border (see Section 5).

Incidents of rape of women and girls in refugee camps continued to occur, especially near the Dadaab camps (see Sections 1.c. and 5). Over 80 percent of such rapes occurred when women and girls collected firewood and building materials outside the camps; however, reported rapes declined during the year, largely because of a firewood distribution program initiated at the Dadaab camps. On April 3, a court in Garissa convicted and sentenced a man to two concurrent 30-year prison terms for raping two refugee women near the Dadaab camp (see Section 1.c.).

Acts of violence, including banditry and shootings, occur regularly near the camps. In January, February, and April Somali refugees at the Kakuma camp burned over 400 of their shelters, reportedly to attract attention to their demands for resettlement and to claim food ration cards allegedly lost in the fires.

There were no reports of the forced expulsion from the country of persons with a valid claim to refugee status.

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, their ability to do so has not yet been demonstrated fully. The National Assembly continued to be dominated by the same ruling party. The December 1997 general elections, despite numerous logistical and other flaws, generally reflected the will of the electorate. They 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. KANU victories in 1998 and 1999 by-elections (four caused by the deaths of sitting opposition M.P.'s and one by a defection to KANU) increased KANU's majority in the National Assembly to 118 of 222 seats. The High Court required one by-election by overturning a 1997 opposition victory; the court continued not to take action on any opposition challenges to KANU victories in 1997.

At the local level, the President exercises sweeping power over the administrative structure. The President appoints both the powerful provincial and district commissioners and a multitude of district and village officials. In elections many local officials actively assist the ruling KANU. Unlike in previous by-elections in 1998 and 1999, there were no allegations of partisan electoral abuses by local officials during the one by-election in April in the Kwanza constituency, Rift Valley.

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 the President's conduct is inappropriate for parliamentary debate, has limited the scope of deliberation on controversial political issues. M.P.'s are entitled to introduce legislation, but in practice it is the Attorney General who does so. The President significantly influences the legislative agenda. However, in November 1999, the National Assembly amended the Constitution to give the National Assembly the power to hire its own staff and to vote its own budget, despite President Moi's long-expressed opposition to this amendment. On November 28, the National Assembly passed implementing legislation, which was being implemented at year's end.

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., 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.).

On December 28, 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 could still submit motions on their own and participate in all Parliament activities.

Reforms adopted in 1997 ameliorated 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. One parliamentary by-election was held during the year on April 15, in the Kwanza constituency, Rift Valley. FORD-Kenya kept their seat in the by-election. While there was some violence in the period prior to the election, the election was held without incident.

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. Although demands by religious leaders and NGO's to restart the stalled constitutional reform process continued in 1999, Moi continued to insist that only the National Assembly was competent to review the Constitution. 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. The Parliament created a separate review commission in November, which also did not complete its review by year's end. In the latter half of the year, the Government and police harassed and disrupted meetings of the Muungano wa Mageuzi (Movement for Change), 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. On December 8, President Moi ordered the police to ban all future rallies by the Mageuzi and to cancel any licenses that already had been issued. He also accused Mageuzi and the Ufungamano Initiative of planning to overthrow the Government (see Section 2.c.). On November 11, police in Eldoret used tear gas and batons to disperse Mageuzi demonstrators (see Sections 1.c. and 2.b.). On December 9, police in the Western Province set up roadblocks to prevent M.P.'s from attending a Mageuzi event in Busia and forcibly dispersed the rally (see Sections 1.c., 1.d., 2.a., and 2.b.).

Elected local councils exist, but the executive branch of the central Government has arrogated most of the revenues and functions that they had at independence. 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 some oversight of nursery 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 services.

Although there are no legal restrictions, traditional attitudes circumscribe the role of women in politics, and women are underrepresented in government and politics. The National Assembly included eight female M.P.'s (four elected and four nominated), up from seven in the last session. The Women's Political Caucus, formed in 1997, continued to lobby over issues of concern to women and to increase the influence of women on government policy. A bill was introduced in June to create a number of parliamentary seats reserved for women; however, no action was taken on the bill by year's end.

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, and no minister from the third-largest ethnic group, the Luo; both the Kikuyus and the Luos tend to support opposition parties. However, in 1999 President Moi appointed a person affiliated with the Kikuyu ethnic group as Vice President. 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

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 Protestant 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, 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 poor 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 instructed government officials to monitor NGO's carefully, and government officials including the President continued to intimidate, and threaten to disrupt human rights organizations and other NGO's (see Section 2.b.). According to a 1999 KBC news 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.

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 issues. During the year, it also published a report entitled "Damned and Debased: Women in Prison and Detention Centers in Kenya" (see Section 1.c.). The Institute for Education in Democracy and other NGO's monitor elections in cooperation with the Electoral Commission and diplomatic missions.

The 10-member Government Standing Committee on Human Rights (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, it has received sufficient funds to fill only 8 of its 27 authorized staff positions, and it has been relatively inactive. Since its inception, the Committee has maintained a low profile and kept its distance from most contentious human rights problems. 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 Committee greater autonomy and independence; however, the Assembly took no action on it by year's end.

In October 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.

In July the Government facilitated a fact-finding visit by foreign diplomatic personnel to visit the Kamiti Maximum Security Prison and Langata Women's Prison (see Section 1.c.).

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

Violence against women is a serious and widespread problem. According to the Government, 165 cases of rape were reported to the police in Nairobi during the year, compared to 155 in 1999. 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 that nothing would change. Although the validity of the study is unproven, the basic figures reflect 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.

There continued to be incidents of rape of refugee Somali women at the Dadaab refugee camps, where women were assaulted outside camp perimeters in the course of gathering firewood and occasionally within the camps themselves (see Section 2.d.). A 1999 KHRC report noted a yearly average of over 100 reported cases of rape among refugee women. The UNHCR initiated a program to distribute firewood to refugees, which reduced the incidence of rape outside the camps; however, such crimes remain a problem.

Since 1994 the Federation of Women Lawyers (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 over 800 police officers about gender issues.

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 automatically to transmit 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 that are designed to protect women's rights: The Domestic Violence (Family Protection) Bill; The

National Commission on Gender and Development Bill; and The Children Bill. The Task Force on Laws Relating to Women, established by the Attorney General in 1993, has yet to make its report.

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.

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. 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 male relatives by blood or marriage.

Women make up about 75 percent of the agricultural work force and have become active in urban small businesses. Nonetheless, the average monthly income of women is about two-thirds that of men, and women hold only about 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.

The nation's best known women's rights and welfare organization, Maendeleo Ya Wanawake ("Development of Women" in Swahili) 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. 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. The health care system for school children, which once provided periodic medical checkups and free milk, is defunct. Corporal punishment of students, including caning, by teachers is widespread in schools.

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. Health officials estimate that as much as 50 percent of women nationwide have suffered FGM. According to Maendeleo Ya Wanawake, the percentage is as high as 80 to 90 percent in some districts of Eastern, Nyanza, and Rift Valley provinces. FGM usually is performed at an early age. In September six women attacked Josephine Gacheri Mbaabu, an adolescent student, as she collected firewood, and attempted to circumcise her. She escaped without being circumcised; however, she was injured in the eye, ear, and neck. Mbaabu reportedly had undergone a less severe form of FGM, which was insufficient for the women. President Moi has issued two presidential decrees banning FGM, and the Government prohibits government-controlled hospitals and clinics from practicing it; however, no law bans FGM. In an attempt to end FGM, some members of the Marakwet and Maasai tribes 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 suffered FGM in December 1999, compared to 12,000 girls during the same month in the 4 previous years.

In December a magistrate in Rift Valley ruled in favor of Ednah Chebet Kandie and Beatrice Jepkosgei Kandie, two sisters who sued their father over his traditional right to force them to undergo FGM. The December 12 court order prevents Pius Kandie from forcing his daughters to undergo FGM.

Economic displacement and the spread of HIV/AIDS continued to fuel the problem of homeless street children. The number of Nairobi's street children is over 60,000, 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.

The problem of child rape and molestation continued to grow. There were frequent press reports of rape 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. 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; however, no action had been taken at year's end. 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.

On June 9, the Nairobi Chief Magistrate ordered Julius Sunkuli, the Minister of State in the Office of the President, to appear before the court on June 23 to face rape charges brought by FIDA on behalf of Florence Nangini Mpayei, who claimed that Sunkuli raped her in his office in 1996 when she was 14 years old. Mpayei also alleged that she bore a child as a result of the rape. In September the court dropped the case at Mpayei's behest.

Child prostitution is a major problem in Nairobi and Mombasa, often connected with the tourist trade. Child prostitution has grown considerably due both to economic contraction and the increase in the number of orphans due to the spread of HIV/AIDS.

There were reports that children were killed for body parts by persons practicing healing rituals associated with traditional religions (see Sections 1.a. and 2.c.). In September authorities in one part of Nairobi reportedly banned night worship temporarily after several young children were found dead in the area, allegedly victims of devil worship. In October several small riots ensued as residents attacked suspected child abductors and killed three suspects in the process (see Sections 1.a. and 2.c.). Similar incidents occurred in Mombasa and Nakuru where mobs attacked suspected child abductors. One man died when Nakuru police fired on a crowd that was attempting to lynch a suspect.

People with Disabilities

Government policies do not discriminate officially against the disabled with regard to employment, education, or state services. However, disabled persons frequently are denied licenses to drive. There are no mandated provisions of accessibility for the disabled to public buildings or transportation. Kenya Television Network broadcasts some news programs in sign language.

Religious Minorities

There generally is a great level of tolerance among religious groups; however, there were a few instances of violence between adherents of different religions, and Muslims increasingly perceive themselves to be 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, is also 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. Muslims also believe that the national business community, dominated by largely Christian ethnic groups from inland "up-country" areas including the Kikuyu, deliberately allocates to non-Muslims most of the jobs it creates in predominantly Muslim areas including the coastal area. The debate at times has undermined mutual trust. The misuse of authority by mainly Christian security forces in the northeast, which is largely Muslim and in which banditry is widespread, has long contributed to Muslim mistrust. In recent years, the absence of effective government in southern Somalia and the OLF insurgency in southern Ethiopia have strained Christian-Muslim relations further by causing the Government to increase security force presence and operations in the northeast, where many security force members may find it hard to distinguish Kenyan Muslims from ethnically and culturally similar members of Somali militias or the OLF (see Sections 1.a and 1.c.).

There were a few instances of violence between adherents of different religions. On April 21, a group of Muslims allegedly threw stones and attacked a group of Catholic worshipers who had stopped in front of the Majengo mosque in Nyeri to pray during a Good Friday ceremony. The Muslim worshipers were in the middle of their Friday prayers and believed that the Catholics were provoking them. A few of the Catholics received minor cuts and bruises. Top leaders of the two faiths met in Nyeri a few days later to reconcile their differences and apologize before the fight escalated. On April 23, Muslim youths in Kitui reportedly charged and dispersed a group of Christians who were making noise outside a mosque during evening prayers.

On November 30 and December 1, Muslim worshippers and local traders fought over land surrounding a mosque in a residential neighborhood in Nairobi, resulting in the deaths of four persons and numerous injuries (see Sections 1.a. and 1.c.). Although originally a land conflict, it may have become a religious conflict during the fighting when a mosque, a madrasa (learning center), a church, a nightclub, and kiosks were burned down. Riot police intervened to restore calm; however, there were no reported injuries caused by this intervention.

During the year, there were reports of ritual murders allegedly associated with aspects of traditional indigenous religions. The victims, generally believed to be teenaged children, reportedly were killed and parts of their bodies removed for use in traditional rituals by persons seeking renewed youth or health. The Report of the 1994 Presidential Commission of Inquiry into Devil Worship, presented to the Parliament in August 1999, contained similar reports from recent years.

Mob violence against persons suspected of practicing witchcraft resulted in dozens of deaths (see Section 1.a.). There were no statistics on the number of mob killings of suspected witches during the year; however, unsubstantiated accusations of the practice of witchcraft or satanism appeared increasingly common.

National/Racial/Ethnic Minorities

The country's population of approximately 29 million was divided into more than 40 ethnic groups, among which there were frequent and credible allegations of discrimination, as well as sporadic 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 still 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 a 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 April 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 2.a.). In August President Moi also criticized and sought ineffectively to ban radio broadcasts in languages other than English or Kiswahili (see Section 2.a.).

In August 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 changed the Commission's aggressive prosecutor John Nyagah Gacivh to the more progovernment Deputy Attorney General Bernard Chunga. 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 75 to 100 deaths per month (see Section 1.a.). Significant conflict occurred between ethnic Pokots and Marakwets, between Pokots and Turkanas, between Turkanas and Samburus, between Luos and Kisilis, between Boranas and Somalis, and among various Somali clans. Many factors contributed to these 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. In April approximately 400 armed men attacked a Somali clan in Isiolo District; 20 to 40 persons reportedly were killed. In April an estimated 500 Pokot raiders attacked a Turkana village near Baragoi; 27 persons were killed during the fighting. In June Pokot gangsters raided a Marakwet village; 10 persons were killed and several others reportedly were missing following the fighting. During the week of June 27, five persons were killed when disputes resurfaced over the ownership of a plot of land along the common border between Gucha and Migori districts, Western Province. When a Luo man attempted to till the land, a group of Kisii men attacked and killed him. In response the Luo's kinsmen killed two of the suspects. A band of Kisii men then killed another Luo in his home in revenge. In July 30 persons were killed during fighting between two Somali clans in Wajir district. Violence also broke out during several periods between ethnic Somali and Boranas in the Isiolo area, resulting in numerous deaths.

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. On June 7, police in Molo prevented the KHRC from holding a civic education drive for the Ogiek community at Tinet Forest (see Section 2.b.). A spokesperson for the KHRC claimed the police deliberately prevented the visit in an attempt to deny the Ogiek their rights.

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. They must produce upon demand their national identification card and a second identification card verifying screening, which is a form of prior verification of citizenship through birth records of parents and sometime grandparents. Both cards also were required in order to apply for a passport. The continued presence of and at times criminal activities by Somali refugees has 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 African Kenyans resent persons 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. The involvement of some Asians in corrupt activities 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, Democratic Party M.P. from Laikipia West, has called Asians "the greatest economic enemies" of the country and in early September, 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."

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

Section 6 Worker Rights

a. The Right of Association

The law provides that all workers, except for central government civil servants, medical personnel, and university academic staff, are free to join unions of their choice. The Police Act prohibits members of the national police force from joining unions. In practice workers employed in export processing zone (EPZ) firms, as well as those who work in many small firms, face dismissal if they join unions. 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 that another union is not 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. Since 1980 when the Kenya Civil Servants Union was deregistered for political reasons, civil servants also have been denied union membership. In August 1999, Dr. Richard Leakey, head of the civil service, announced that the Government may reregister the union and allow civil servants to become members; however, no action had been taken by year's end.

There were 37 unions representing approximately 600,000 workers, about one-third of the country's formal-sector work force. All but five 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, which represents more than one-third of all unionized workers. The other four non-COTU unions are splinter organizations that separated from older bodies that remained within the COTU. 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 have evolved into de facto ethnic groupings.

The Government created COTU in 1965 as the successor to the Kenya Federation of Labor and the Kenya African Workers' Congress. The 1965 decree establishing COTU 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. For the past few years, some leaders from affiliated unions have sought to bring about democratic reforms in the election of union leaders, independence from the Government, and establishment of links with any political party that supports worker rights. The reelection of the COTU leadership in 1996 indicated that there would be no major changes in the near future. Prior to the 1997 national elections, some trade union leaders began pushing the COTU to take part in the election reform dialog. The COTU leadership took a progovernment position.

The Trade Disputes Act 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 Kenya National Union of Teachers (KNUT) called a nationwide strike, which the Government quickly settled with pay increases of over 200 percent spread over 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 late 1998 strike by the KNUT, which the Government declared illegal. The strike ended after 15 days when the Government refused to renegotiate. In November 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 KNUT threatened to hold a nationwide strike at year's end, but did not do so. The Government and the KNUT remain in irregular 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.

During the year there were several "labor actions," usually informal or wildcat strikes; however, there were fewer than in the previous year. 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). On September 11, antiriot police responded to a September wildcat strike by several hundred guard service employees by firing tear gas at the striking guards after they began burning vehicles and attacking passers-by (see Section 1.c.).

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.

Internationally, the COTU is affiliated 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 1962 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. In 1994 the Government relaxed wage policy guidelines to permit wage increases of up to 100 percent and renegotiation of collective agreements. Collective bargaining agreements must be registered with the Industrial Court in order to ensure adherence to these guidelines.

The Trade Disputes Act makes it illegal for employers to intimidate 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 lost

wages—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.

Legislation authorizing the creation of export processing zones (EPZ's) was passed in 1990. The EPZ authority decided that local labor laws, including the right to organize and bargain collectively would apply in the EPZ's, although it grants many exemptions in practice. 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.). Labor and some government officials continued to criticize health and safety conditions in the EPZ's.

c. Prohibition of Forced or Compulsory Labor

The Constitution proscribes slavery, servitude, and forced labor, including forced and bonded labor by children; 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. There reportedly were instances during the year, especially in rural areas, of children being loaned out as workers to pay off family debts (see Section 6.d.).

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

The Employment Act of 1976 makes the employment in industry of children under the age of 16 illegal. The act applies neither to the agricultural sector, where about 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; however, there are more than 4 million child laborers in the country. 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, and is a significant problem. 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). 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.

The Government is a signatory to ILO Convention 182 on the worst forms of child labor; however, the Parliament had not ratified the convention by year's end. There are no laws on the worst forms of child labor. Many NGO's are active in this area.

Forced or bonded labor by children is prohibited by law; however, there reportedly were instances in which it occurred, primarily in rural areas as a form of family debt repayment (see Section 6.c.).

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. The lowest minimum wage is currently \$42 (3,180 shillings) per month in the largest urban areas and \$25 (1,908 shillings) in rural areas. Workers covered by a collective bargaining agreement (CBA's) generally receive a better wage and benefit package than those not covered, including 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. The 6 percent minimum wage increase decreed by the Ministry of Labor in May was criticized widely by the workforce. Most workers relied on second jobs, subsistence farming, informal sector opportunities, or the extended family for additional support.

The Regulation of Wages and Conditions of Employment Act 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 act 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. Workers in some enterprises claimed that employers forced them to work extra hours without overtime pay. The Ministry of Labor is responsible for enforcing these regulations, and there were few reports of violations. Foreign workers are covered by the same legislation and work rules as citizens.

The 1951 Factories Act sets forth detailed health and safety standards; it was amended in 1990 to include agricultural and other workers. The 65 health and safety inspectors attached to the Ministry of Labor's Directorate of Occupational Health and Safety Services have the authority to inspect factories and work sites. As a result of the 1990 amendments, the Directorate's inspectors may issue notices enjoining employers from practices or activities that involve a risk of serious personal injury. Previously, only magistrates were vested with this authority. 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. One section 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. The vast majority of factories have yet to comply with the provision. 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.

f. Trafficking in Persons

Although there are no laws that specifically prohibit trafficking in persons, there are applicable laws against kidnapping and abduction that potentially could be used to prosecute traffickers; however, there were no reports that persons were trafficked to, from, within, or through the country during the year. In past 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.

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

[End.]

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