



## China (includes Tibet, Hong Kong, and Macau)

### Country Reports on Human Rights Practices - [2003](#)

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(Note: Also see the section for [Tibet](#), the report for [Hong Kong](#), and the report for [Macau](#).)

The People's Republic of China (PRC) is an authoritarian state in which, as directed by the Constitution, the Chinese Communist Party (CCP or Party) is the paramount source of power. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 24-member political bureau (Politburo) of the CCP and its 9-member standing committee. Leaders made a top priority of maintaining stability and social order and were committed to perpetuating the rule of the CCP and its hierarchy. Citizens lacked both the freedom peacefully to express opposition to the Party-led political system and the right to change their national leaders or form of government. Socialism continued to provide the theoretical underpinning of national politics, but Marxist economic planning has given way to pragmatism, and economic decentralization increased the authority of local officials. The Party's authority rested primarily on the Government's ability to maintain social stability; appeals to nationalism and patriotism; Party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. The Constitution provides for an independent judiciary; however, in practice, the Government and the CCP, at both the central and local levels, frequently interfered in the judicial process and directed verdicts in many high-profile cases.

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. Civilian authorities generally maintained effective control of the security forces. Security policy and personnel were responsible for numerous human rights abuses.

The country's transition from a centrally planned to a market-based economy continued. Although state-owned industry remained dominant in key sectors, the Government has set up a commission to help reform major state-owned enterprises (SOEs), privatized many small and medium SOEs, and allowed private entrepreneurs increasing scope for economic activity. Rising urban living standards; greater independence for entrepreneurs; the reform of the public sector, including government efforts to improve and accelerate sales of state assets and to improve management of remaining government monopolies; and expansion of the non-state sector increased workers' employment options and significantly reduced state control over citizens' daily lives.

The country faced many economic challenges, including reform of SOEs and the banking system, growing unemployment and underemployment, the need to construct an effective social safety net, and growing regional economic disparities. In recent years, between 100 and 150 million persons voluntarily left rural areas to search for better jobs and living conditions in the cities, where they were often denied access to government-provided economic and social benefits, including education and health care. During the year, the Government issued regulations that relaxed controls over such migration and expanded the rights of migrants to basic social services. In the industrial sector, continued downsizing of SOEs contributed to rising urban unemployment that was widely believed to be much higher than the officially estimated 4 percent, with many sources estimating the actual figure to be as high as 20 percent. Income gaps between coastal and interior regions, and between urban and rural areas, continued to widen. The Government reported that urban per capita income in 2002 was \$933 and grew by 12 percent over the previous year, while rural per capita income was \$300 and grew by 5 percent. Official estimates of the number of citizens living in absolute poverty showed little change from the previous year, with the Government estimating that 30 million persons lived in poverty and the World Bank, using different criteria, estimating the number to be 100 to 150 million persons.

The Government's human rights record remained poor, and the Government continued to commit numerous and serious abuses. Although legal reforms continued, there was backsliding on key human rights issues during the year, including arrests of individuals discussing sensitive subjects on the Internet, health activists, labor protesters, defense lawyers, journalists, house church members, and others seeking to take advantage of the space created by reforms. Citizens did not have the right peacefully to change their government, and many who openly expressed dissenting political views were harassed, detained, or imprisoned. Authorities

were quick to suppress religious, political, and social groups that they perceived as threatening to government authority or national stability.

Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. Tibetan Lobsang Dondrub was executed in January, a day after his appeal was denied, despite promises made to diplomatic observers that the Supreme People's Court (SPC) would review his case. In April, the Government officially concluded a nationwide "strike hard" campaign against crime, which was implemented with particular force in Xinjiang and included expedited trials and public executions. However, short-term campaigns against specific types of crime were launched in some areas during the year, and, in Xinjiang, particularly harsh treatment of suspected Uighur separatists reportedly continued after the official end of the nationwide strike hard campaign in April. Amnesty International (AI) reported that China executed more persons than any other country.

The judiciary was not independent, and the lack of due process remained a serious problem. Government pressure made it difficult for Chinese lawyers to represent criminal defendants. A number of attorneys were detained for representing their clients actively. During the year, Beijing defense lawyer Zhang Jianzhong and Shanghai housing advocate Zheng Enchong both were sentenced to multi-year prison terms in connection with their defense of controversial clients. The authorities routinely violated legal protections in the cases of political dissidents and religious figures. They generally attached higher priority to suppressing political opposition and maintaining public order than to enforcing legal norms or protecting individual rights.

Throughout the year, the Government prosecuted individuals for subversion and leaking state secrets as a means to harass and intimidate. In July, lawyer Zhao Changqing was sentenced to 5 years' imprisonment on charges of subversion for his alleged role in drafting an open letter to the November 2002 16th Party Congress urging democratization. At least five others who signed the letter were also prosecuted on such charges. In October, former attorney Zheng Enchong was sentenced to 3 years in prison for "disclosing state secrets" as an alleged result of his providing information about labor and housing protests to a foreign human rights organization. The same month, house church member Liu Fenggang was detained on state secrets charges, allegedly for providing information to overseas nongovernmental organizations (NGOs) about his investigation into the destruction of house churches in Zhejiang Province. Others detained, prosecuted, or sentenced on state secrets charges included political dissident Yang Jianli and a number of Internet writers.

Over 250,000 persons were serving sentences, not subject to judicial review, in "reeducation-through-labor" camps. In April, inmate Zhang Bin was beaten to death in a reeducation-through-labor camp, prompting public debate on reeducation through labor and calls to abolish the system.

The number of individuals serving sentences for the now-repealed crime of counterrevolution was estimated at 500-600; many of these persons were imprisoned for the nonviolent expression of their political views. Credible sources estimated that as many as 2,000 persons remained in prison at year's end for their activities during the June 1989 Tiananmen demonstrations.

The authorities released political activist Fang Jue in January. Many others, including China Democracy Party co-founders Wang Youcai and Qin Yongmin; Internet activists Xu Wei, Yang Zili, and Huang Qi; Uighur businesswoman Rebiya Kadeer; journalist Jiang Weiping; labor activists Yao Fuxin, Xiao Yunliang, and Liu Jingsheng; Catholic Bishop Su Zhimin; house church leaders Zhang Yinan, Liu Fenggang and Xu Yonghai; Tibetan nun Phuntsog Nyidrol; Uighur historian Tohti Tunyaz; and political dissident Yang Jianli remained imprisoned or under other forms of detention.

The Government used the international war on terror as a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders. The human rights situation in the Tibet Autonomous Region (TAR) and in some ethnically Tibetan regions outside the TAR also remained poor (see Tibet Addendum).

The Government maintained tight restrictions on freedom of speech and of the press. The Government regulated the establishment and management of publications, controlled the broadcast media, at times censored foreign television broadcasts, and at times jammed radio signals from abroad. During the year, publications were closed and otherwise disciplined for publishing material deemed objectionable by the Government, and journalists, authors, academics, and researchers were harassed, detained, and arrested by the authorities. In May, Sichuan website manager Huang Qi and students belonging to the New Youth Study Group received long prison sentences for their Internet essays encouraging democracy. Others detained or convicted for their Internet activity included Tao Haidong, Luo Yongzhong, Du Daobin, Yan Jun, Li Zhi, and Jiang Lijun. In November, Beijing Normal University Student Liu Di and two others were released on bail after a year of pretrial detention in connection with their Internet postings. Internet use continued to grow in the country, even as the Government continued and intensified efforts to monitor and control use of the Internet and other wireless technology including cellular phones, pagers, and instant messaging devices. During the year, the Government blocked many websites, increased regulations on Internet cafes, and pressured Internet companies to pledge to censor objectionable content. NGOs reported that 39 journalists were imprisoned at

year's end and that 48 persons had been imprisoned by the Government for their Internet writing during China's brief history of Internet use.

Initially, news about the outbreak of Severe Acute Respiratory Syndrome (SARS) was strictly censored, and some journals were closed because they disclosed information about SARS. In April, the Government publicly acknowledged that the SARS epidemic was more serious than previously admitted. Those accused of interfering with SARS prevention were detained. Hundreds of Falun Gong practitioners were detained on such accusations. Information about the spread of HIV/AIDS also continued to be tightly controlled in some provinces. In June, hundreds of police violently suppressed protests by persons infected with HIV/AIDS in Xionggiao village, Henan Province. Henan health official Ma Shiwen was detained during the year on charges of disclosing state secrets after providing information about the extent of the HIV epidemic in Henan Province to website publishers.

The Government severely restricted freedom of assembly and association and infringed on individuals' rights to privacy.

While the number of religious believers in the country continued to grow, government respect for religious freedom remained poor. Members of unregistered Protestant and Catholic congregations; Muslim Uighurs; Tibetan Buddhists, particularly those residing within the TAR (see Tibet Addendum); and members of folk religions experienced ongoing and, in some cases, increased official interference, harassment, and repression. Protestant activists Zhang Yinan, Xu Yonghai, Liu Fenggang, and Zhang Shengqi were among those detained or sentenced. However, religious groups in some areas noted a greater freedom to worship than in the past. The Government continued to enforce regulations requiring all places of religious activity to register with the Government or to come under the supervision of official, "patriotic" religious organizations. In some areas, religious services were broken up and church leaders and adherents were harassed, detained, or beaten. At year's end, scores of religious adherents remained in prison because of their religious activities. No visible progress was made in improving relations between the Government and the Vatican, although both sides claimed to be ready to resume negotiations aimed at establishing diplomatic relations. The Government continued its crackdown against the Falun Gong spiritual movement, and thousands of practitioners remained incarcerated in prisons, extrajudicial reeducation-through-labor camps, and psychiatric facilities. Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse, and neglect since the crackdown on Falun Gong began in 1999.

Freedom of movement continued to be restricted. The Government denied the U.N. High Commissioner for Refugees (UNHCR) permission to operate along its border with North Korea and deported several thousand North Koreans, many of whom faced persecution upon their return. Abuse and detention of North Koreans in the country was also reported. However, the Government continued to relax its residence-based registration requirements and eliminated requirements for work unit approval of certain personal decisions, such as getting married.

The Government did not permit independent domestic nongovernmental organizations (NGOs) to monitor human rights conditions. In September, the U.N. Special Rapporteur on the Right to Education visited Beijing. Although the Government extended "unconditional" invitations to the U.N. Special Rapporteur for Torture, the U.N. Special Rapporteur for Religious Intolerance, the U.N. Working Group on Arbitrary Detention, and the U.S. Commission on International Religious Freedom (USCIRF), expected visits did not occur by year's end. Conditions imposed by the Government caused negotiations with the U.N. Special Rapporteur for Torture to break down and caused USCIRF twice to postpone a planned trip.

Violence against women (including imposition of a birth limitation policy coercive in nature that resulted in instances of forced abortion and forced sterilization), prostitution, and discrimination against women, persons with disabilities, and minorities continued to be problems.

Labor demonstrations, particularly those protesting nonpayment of back wages, continued but were not as large or widespread as those in 2002. In May, Yao Fuxin and Xiao Yunliang, leaders of the largest demonstrations in 2002, were sentenced to prison terms on charges of subversion. Workplace safety remained a serious problem, particularly in the mining industry. The Government continued to deny internationally recognized worker rights, and forced labor in prison facilities remained a serious problem. Trafficking in persons also remained a serious problem.

However, significant legal reforms continued during the year. In June, the Government abolished the administrative detention system of "custody and repatriation" for migrants. Reforms also expanded legal aid and introduced restrictions on extended unlawful detention. In October, the Third Party Plenum formally approved a constitutional amendment that will, if approved at the March 2004 session of the National People's Congress, put the protection of individual rights into China's constitution for the first time. At year's end, it remained unclear how these reforms would be implemented and what effect they would have.

RESPECT FOR HUMAN RIGHTS

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

## Arbitrary or Unlawful Deprivation of Life

During the year, politically motivated and other arbitrary and unlawful killings occurred. The official press reported extrajudicial killings, but no nationwide statistics were available. Deaths in custody due to police use of torture to coerce confessions from criminal suspects continued to occur. Beating deaths during administrative detention also occurred and sparked public calls for reform (see Sections 1.c. and 1.d.).

Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse, and neglect since the crackdown on Falun Gong began in 1999. For example, Falun Gong groups alleged that more than 50 persons died in custody in June through August, many from torture in detention camps.

Trials involving capital offenses sometimes took place under circumstances where the lack of due process or a meaningful appeal bordered on extrajudicial killing. NGOs reported over 1,000 executions during the year, including dozens on June 26 to mark international anti-drug day. AI reported that China executed more persons than any other country. In 2002, officials reportedly carried out over 4,000 executions after summary trials as part of a nationwide "strike hard" campaign against crime. The actual number of persons executed likely was far higher than the number of reported cases. The Government regarded the number of death sentences it carried out as a state secret but stated that the number of executions decreased during the year. Some foreign academics estimated that as many as 10,000 to 20,000 persons were executed each year.

## b. Disappearance

In some areas, police targeted dissidents without family members for detention or incarceration in psychiatric facilities. With no family to notify, this practice in effect constituted disappearance.

The Government has used incommunicado detention. For example, in December 2002, the Government acknowledged that it was holding dissident Wang Bingzhang, who along with two other individuals disappeared in Vietnam on June 26, 2002. After several months of incommunicado detention, the other detainees, Zhang Qi and Yue Wu, were released but, in January, Wang was convicted on charges of espionage and terrorism and sentenced to life in prison. In February, his appeal was denied. In July, the U.N. High Commissioner for Human Rights found that Wang's disappearance, arrest, and imprisonment violated international standards, and he asked the Guangdong Provincial High Court in September to reconsider his case. Wang also objected to being forced to attend political study sessions and went on a hunger strike in prison as a protest. At year's end, the court had taken no action.

As of year's end, the Government had not provided a comprehensive, credible accounting of all those missing or detained in connection with the suppression of the 1989 Tiananmen demonstrations.

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

The law prohibits torture; however, police and other elements of the security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. The Prison Law forbids prison guards from extorting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. While senior officials acknowledged that torture and coerced confessions were chronic problems, they did not take sufficient measures to end these practices. Former detainees reported credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse. Recommendations from the May 2000 report of the U.N. Committee Against Torture still had not been fully implemented by year's end. These recommendations included incorporating a definition of torture into domestic law, abolishing all forms of administrative detention (including reeducation through labor), promptly investigating all allegations of torture, and providing training courses on international human rights standards for police.

During the year, police use of torture to coerce confessions from criminal suspects continued to be a problem. The 2002 death in custody of Zeng Lingyun of Chongqing Municipality remained unresolved. On July 26, 2002, public security personnel detained Zeng on theft charges. On July 28, his family was informed that he had died. Local officials initially told Zeng's family that he had been shot by police, and the family noticed extensive bruises and a bullet wound on the body.

Since the crackdown on Falun Gong began in 1999, there reportedly have been several hundred deaths in custody of Falun Gong adherents, due to torture, abuse, and neglect (see Section 2.c.).

The Government made some efforts to address the problem of torture during the year. Some provincial governments issued regulations stipulating that judges and police using torture to extract confessions from

suspects would face dismissal. The Government announced that evidence obtained through coerced confessions would be excluded from trial in certain administrative cases (which include acts akin to certain criminal misdemeanors as well as behavior punishable through administrative detention, such as disruption to social order). Police officers who tortured suspects faced dismissal and criminal prosecution in some cases. For example, two police in Dandong, Liaoning Province, were sentenced to 1 and 2 years in jail in December, after torturing two suspects to death in 2001.

During the year, there were reports of persons, particularly Falun Gong adherents, sentenced to psychiatric hospitals for expressing their political or religious beliefs (see Section 1.d.).

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and frequently degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation, and their food often was inadequate and of poor quality. Many detainees relied on supplemental food and medicines provided by relatives, but some prominent dissidents reportedly were not allowed to receive supplemental food or medicine from relatives. According to released political prisoners, in many provinces it was standard practice for political prisoners to be segregated from each other and placed with common criminals. Released prisoners reported that common criminals have beaten political prisoners at the instigation of guards. Some prominent political prisoners received better than standard treatment.

The 1994 Prison Law was designed, in part, to improve treatment of detainees and increase respect for their legal rights; however, many provisions of this law have not been effectively implemented. Some prisoners were able to use administrative procedures provided for in this law to complain about prison conditions. The Government also has created some "model" facilities, where inmates generally received better treatment than those held in other facilities. Chinese prison management relied on the labor of prisoners both as an element of punishment and to fund prison operations (see Section 6.c.). During the year, the Government established a pilot program in some locations to separate prison enterprises from prison reform and punishment functions.

Adequate, timely medical care for prisoners continued to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment if they become ill. Political prisoners continued to have difficulties in obtaining medical treatment, despite repeated appeals on their behalf by their families and the international community. Those with health concerns included China Democracy Party (CDP) co-founders Qin Yongmin and Wang Youcai; Internet essayist Luo Yongzhang; democracy activists Hua Di and He Depu; labor activists Xiao Yunliang, Yao Fuxin, Hu Shigen, Liu Jingsheng, and Zhang Shanguang; Tibetan nun Phuntsog Nyidrol; religious prisoners Liu Fenggang and Bishop Su Zhimin; dissident Wang Bingzhang; and Uighur businesswoman Rebiya Kadeer. During the year, anti-corruption campaigner An Jun, Internet dissident Xu Wei, and dissident Wang Bingzhang allegedly went on hunger strikes in prison.

Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons. Two highly publicized deaths in administrative detention prompted calls for an overhaul of the system. In March, a university graduate, Sun Zhigang from Henan Province, was beaten to death in a Guangzhou city custody and repatriation center after being detained by police as a suspected illegal migrant. Sun did not have a Guangzhou residency document, and police reportedly locked him in a custody and repatriation facility because his accent revealed he was from a different province. In the facility, inmates beat him to death, and some facility employees allegedly knew of and encouraged the beating. Subsequently, criminal charges were filed against 18 persons. One staff member of the facility was executed, and several prisoners who allegedly inflicted the beating received stiff jail terms or suspended death sentences. Police involved were given mostly administrative punishments. Sun's death led to unprecedented public calls for abolition of the custody and repatriation system of administrative detention for illegal migrants, including petitions by legal scholars and National People's Congress (NPC) members. On June 22, the State Council abolished the system and called for the conversion of administrative detention centers into humanitarian relief centers to support migrants, vagrants, and the homeless. At year's end, the impact of these reforms remained uncertain.

In April, inmate Zhang Bin was tortured and beaten to death at the Huludao City Correctional Camp, a reeducation-through-labor facility in Liaoning Province, where he had reportedly been sentenced to 18 months as punishment for theft. For 30 days, 9 inmates and the inmate labor boss reportedly beat Zhang, stripped him naked, abused him with plastic pipes and hammers, applied hot peppers and salt to his wounds, and doused him in cold water. After Zhang died in an ambulance on the way to a hospital on April 16, 2 workers at the camp were indicted on criminal charges of abuse of authority. In December, inmates charged in the beating were sentenced to long prison terms, and the leader of the gang who beat Zhang was given the death penalty. Zhang's death also prompted calls for reform of reeducation through labor, including a petition by six Guangzhou-based members of the Chinese People's Political Consultative Conference, but no such reforms had been made as of year's end.

In the wake of the Sun and Zhang deaths in custody, public security officials admitted that these beating deaths were not isolated incidents. Sexual and physical abuse and extortion were reported in some detention centers. Forced labor in prisons and reeducation-through-labor camps was also common. At the Xinhua Reeducation-Through-Labor Camp in Sichuan Province, inmates were forced to work up to 16 hours per day

breaking rocks or making bricks, according to credible reports.

The Government generally did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to international human rights organizations. Although the Government agreed to invite the U.N. Special Rapporteur for Torture, this visit stalled in part because of the Government's refusal to allow him to visit prisons without advance notice (see Section 4). By year's end, the Government had not announced any progress in talks with the International Committee of the Red Cross (ICRC) on an agreement for ICRC access to prisons, although there was some discussion of ICRC opening an office in Beijing. Semi-monthly working-level meetings intended to renew cooperation on the U.S.-China Prison Labor Memorandum of Understanding continued during the year (see Section 6.c). A scheduled visit by U.S. officials to discuss prison labor was postponed due to SARS.

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

Arbitrary arrest and detention remained serious problems. The law permits authorities, in some circumstances, to detain persons without arresting or charging them, and persons may be sentenced administratively to up to 3 years in reeducation-through-labor camps and other similar facilities without a trial. Because the Government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to new or continued arbitrary arrest or detention. Official government statistics indicated that there were 230,000 persons in reeducation-through-labor camps, while NGOs claimed some 310,000 persons were in reeducation through labor during the year. According to a 2001 article by the official news agency, 300 reeducation-through-labor facilities have held more than 3.5 million prisoners since 1957. In addition, it was estimated that approximately 2 million persons per year were detained in a form of administrative detention known as custody and repatriation until that system was abolished in June after the beating death of Sun Zhigang (see Section 1.c.). The Government also confined some Falun Gong adherents, labor activists, and others to psychiatric hospitals. Approximately 500-600 individuals continued to serve sentences for the now-repeated crime of counterrevolution. Many of these persons were imprisoned for the nonviolent expression of their political views (see Section 1.e.).

The Ministry of Public Security (MPS) coordinates the country's law enforcement, which is administratively organized into local, county, provincial, and specialized police agencies. Recent efforts have been made to strengthen historically weak regulation and management of law enforcement agencies; however, judicial oversight is limited and checks and balances are absent. Many police and law enforcement units in the country remained poorly trained and lacked basic investigation skills. Corruption at the local level was widespread. Police officers reportedly coerced victims, took individuals into custody without due cause, arbitrarily collected fees from individuals charged with crimes, and mentally and physically abused victims and perpetrators. State media reported that the Government fired over 44,700 police officers for corruption and abuse of authority or dereliction of duty during the year.

Extended, unlawful detention by security officials remained a serious problem. The Supreme People's Procuratorate reported that, from 1998 through 2002, there were 308,182 persons detained for periods longer than permitted by law. At a National People's Congress committee hearing, the Government acknowledged that the problem of extended detention "has not been fundamentally resolved" and varied by location.

Unlawful extended detention disproportionately affected political dissidents. Dissident Yang Jianli was held without charges for over a year before his August 4 trial. At year's end, he remained in jail without a conviction or legal justification for his extended detention. In June, the U.N. Working Group on Arbitrary Detention found that China's pretrial detention of Yang Jianli violated the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights. The release on bail of Internet writer Liu Di after a year of pretrial detention, as well as the convictions of democracy activist Jiang Lijun after a year of pretrial detention and of attorney Zhang Jianzhong after more than 19 months of pre- and post-trial detention, were results of public concern over the issue of unlawful extended detention and a resulting government campaign to address the problem.

This campaign, addressing both pre- and post-trial detention, began in July when the SPC, and later the MPS and Supreme People's Procuratorate, directed courts and police to resolve cases and provide statistics about unlawful extended detention. The MPS stated that police responsible for unlawful extended detention would be prosecuted, and some police were prosecuted and jailed on such charges during the year. At year's end, the SPC announced that Chinese courts had reviewed all cases of unlawful extended detention by police and the courts. According to state media, courts reviewed and solved 4,100 cases of unlawful extended detention, releasing 7,658 detainees; only 91 cases remained unresolved and required further examination.

According to the 1997 Criminal Procedure Law, police can unilaterally detain a person for up to 37 days before releasing him or formally placing him under arrest. After a suspect is arrested, the law allows police and prosecutors to detain him for months before trial while a case is being "further investigated." The law stipulates that authorities must notify a detainee's family or work unit of his detention within 24 hours. However, in practice, failure to provide timely notification remained a serious problem, particularly in sensitive political cases. Under a sweeping exception, officials were not required to provide notification if doing so would "hinder

the investigation" of a case. In some cases, police treated those with no immediate family more severely. Police continued to hold individuals without granting access to family members or lawyers, and trials continued to be conducted in secret. Detained criminal suspects, defendants, their legal representatives, and close relatives were entitled to apply for bail, but, in practice, few suspects were released pending trial.

The Criminal Procedure Law does not address the reeducation-through-labor system, which allows non-judicial panels of police and local authorities, called Labor Reeducation Committees, to sentence persons to up to 3 years in prison-like facilities. The committees could also extend an inmate's sentence for an additional year. Defendants were legally entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law. They could appeal for a reduction in, or suspension of, their sentences; however, appeals rarely were successful. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for example, for prostitutes and their clients) and "custody and training" (for minors who committed crimes). Persons could be detained for long periods under these provisions, particularly if they could not afford to pay fines or fees.

According to foreign researchers, the country had 20 "ankang" institutions (high-security psychiatric hospitals for the criminally insane) directly administered by the MPS. Some dissidents and other targeted individuals were housed with mentally ill patients in these institutions. The regulations for committing a person into an ankang psychiatric facility were not clear. Credible reports indicated that a number of political and trade union activists, "underground" religious believers, persons who repeatedly petitioned the Government for redress of grievances, members of the banned China Democratic Party, and hundreds of Falun Gong adherents were incarcerated in such facilities during the year. These included Wang Miaogen, Wang Chanhao, Pan Zhiming, and Li Da, who were reportedly held in an ankang facility run by the Shanghai Public Security Bureau. According to NGO reports, more than 30 persons were committed during 2002 to the Harbin Psychiatric Hospital against their will after petitioning authorities for redress of various personal grievances. New regulations issued during the year by some jurisdictions to control police abuses required that all verifications of mental illness must be conducted in hospitals appointed by provincial governments, but it was unknown what impact, if any, the regulations would have in practice. A motion before the World Psychiatric Association to expel China from the organization for using psychiatric facilities to incarcerate political prisoners remained under consideration during the year.

Arrests on charges of revealing state secrets, subversion, and common crimes were used during the year by authorities to suppress political dissent and social advocacy. For example, Shanghai housing advocate Zheng Enchong was arrested on June 6 after he represented hundreds of residents forced from their homes as a result of an urban redevelopment scheme. Henan health official Ma Shiwen was reportedly detained for revealing state secrets after allegedly providing information to NGOs about the HIV infection of thousands of villagers through blood collection procedures. Police sometimes harassed and detained relatives of dissidents (see Section 2.a.). Journalists also were detained or threatened during the year, often when their reporting met with the Government's or local authorities' disapproval (see Section 2.a.). Dozens of citizens writing on the Internet or engaging in on-line chatrooms about political topics were detained during the year (see Section 2.a.). Persons critical of official corruption or malfeasance also frequently were threatened, detained, or imprisoned. In December, Sichuan local official Li Zhi was sentenced to 8 years in prison for "subverting state power" after writing on the Internet to expose official corruption. In January 2002, Jiang Weiping, who had written a series of articles exposing official corruption, was sentenced to 8 years in prison for "subverting state power."

Local authorities used the Government's campaign against cults to detain and arrest large numbers of religious practitioners and members of spiritual groups (see Section 2.c.).

The campaign that began in 1998 against the China Democracy Party (CDP), an opposition party, continued during the year. Dozens of CDP leaders, activists, and members have been arrested, detained, or confined as a result of this campaign. Since December 1998, at least 38 core leaders of the CDP have been given severe punishments on subversion charges. Xu Wenli, Wang Youcai, and Qin Yongmin were sentenced in 1998 to prison terms of 13, 12, and 11 years respectively. While Xu Wenli was released on medical parole to the United States in December 2002, Wang and Qin remained in prison. In March, Shanghai CDP leader Han Lifa was detained reportedly for "soliciting prostitutes," a charge used in the past to discredit dissidents. He was sentenced to 3 years' reeducation through labor. Immediately before and after the 16th Party Congress in November 2002, authorities rounded up a number of the 192 activists, many of whom were members of the CDP, in 17 provinces who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre. Among those detained or sentenced to prison terms on subversion charges during the year in connection with the open letter were lawyer Zhao Changqing, He Depu, Sang Jiancheng, Ouyang Yi, Dai Xuezhong, and Jiang Lijun.

A nation-wide anti-crime "strike hard" campaign began in April 2001 and continued early in the year before officially ending in April. It was characterized by large-scale sentencing rallies and parades of condemned prisoners through the streets of major cities, followed by public executions. The campaign was implemented with special force in Xinjiang, and particularly harsh treatment of suspected Uighur separatists reportedly continued there after the official end of the campaign in April. According to official reports, 12,976 persons in

Beijing alone were sentenced to death or prison for longer than 2 years during the 2-year campaign. Officials announced regional results of the campaign during the summer, but no nationwide statistics were available. Diplomatic officials were barred from a Beijing museum display showing results of the campaign. Short-term campaigns against specific types of crime were launched in some areas during the year.

The strike hard campaign in Xinjiang specifically targeted the "three evils" of extremism, splittism, and terrorism as the major threats to Xinjiang's social stability. Because the Government authorities in Xinjiang regularly grouped together those involved in "ethnic separatism, illegal religious activities, and violent terrorism," it was often unclear whether particular raids, detentions, or judicial punishments targeted those peacefully seeking their goals or those engaged in violence. Many observers raised concerns that the Government's war on terror was a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders (see Section 5).

Chinese law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The Government continued to refuse reentry to numerous citizens who it considered to be dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad have been allowed to return, dissidents released on medical parole and allowed to leave the country were effectively exiled.

The Government's refusal to permit some former reeducation-through-labor camp inmates to return to their homes constituted a form of internal exile.

#### e. Denial of Fair Public Trial

The Constitution states that the courts shall, in accordance with the law, exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice, the judiciary received policy guidance from both the Government and the Party, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the Government frequently interfered in the judicial system and dictated court decisions. Trial judges decide individual cases under the direction of the trial committee in each court. In addition, the Communist Party's Law and Politics Committee, which includes representatives of the police, security, procuratorate, and courts, has authority to review and influence court operations; the Committee, in some cases, altered decisions. People's Congresses also had authority to alter court decisions, but this happened rarely. Corruption and conflicts of interest also affected judicial decision-making. Judges were appointed by the people's congresses at the corresponding level of the judicial structure and received their court finances and salaries from those government bodies, which sometimes resulted in local politicians exerting undue influence over the judges they appointed and financed.

The Supreme People's Court (SPC) is the highest court, followed in descending order by the higher, intermediate, and basic people's courts. These courts handle criminal, civil, and administrative cases, including appeals from decisions by police and security officials to use reeducation through labor and other forms of administrative detention. There were special courts for handling military, maritime, and railway transport cases.

Corruption and inefficiency were serious problems in the judiciary as in other areas (see Section 3). Safeguards against corruption were vague and poorly enforced.

In recent years, the Government has taken steps to correct systemic weaknesses in the judicial system and to make the system more transparent and accountable to public scrutiny. State media reported that, from January 2002 through October 2003, prosecutors filed 7,402 cases against judicial officials nationwide, involving 8,442 officials. Of these cases, 80 percent involved suspected malfeasance and rights violations, while 20 percent involved corruption and bribery. In 1999, the SPC issued regulations requiring all trials to be open to the public, with certain exceptions, including cases involving state secrets, privacy, and minors. The legal exception for cases involving state secrets was used to keep politically sensitive proceedings closed to the public and even to family members in some cases. Under the regulations, "foreigners with valid identification" are to be allowed the same access to trials as citizens. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as "state secrets" cases, thus closing them to the public. Since 1998, some trials have been broadcast, and court proceedings have become a regular television feature. A few courts published their verdicts on the Internet.

Lawsuits against the Government continued to increase as a growing number of persons used the court system to seek legal recourse against government malfeasance. Administrative lawsuits rose, with more than 100,000 such cases filed in 2001, according to government statistics. Losses by plaintiffs dropped from 35.9 percent in 1992 to 28.6 percent in 2001. In 2002, the SPC established guidelines giving litigants the right to access government files to facilitate lawsuits against government bodies. Decisions of any kind in favor of dissidents remained rare.

Court officials continued efforts to enable the poor to afford litigation by exempting, reducing, or postponing court fees. On September 1, new national regulations went into effect expanding the category of cases eligible

for legal aid services and permitting those eligible to obtain legal aid as early as the initial interrogation in criminal cases. Those seeking to obtain compensation from government officials became eligible for legal aid services. From 2000 to 2002, the courts waived over \$387 million (RMB 3.2 billion) in litigation costs.

According to the SPC's March report to the NPC, from 1998 through 2002, 2.83 million criminal cases were tried, and 3.22 million offenders were sentenced, up 16 and 18 percent, respectively, from the previous 5-year period. In 2001, the country's courts handled 5,927,660 cases, 730,000 of which were criminal cases, a 33 percent increase over the previous year, as well as more than 100,000 appeals of administrative decisions. Some 819,000 criminal defendants were sentenced to jail terms of 5 years or more, life imprisonment, or death, during the 5-year period, accounting for approximately 25 percent of the total.

Police and prosecutorial officials often ignored the due process provisions of the law and of the Constitution. For example, police and prosecutors subjected many prisoners to torture and severe psychological pressure to confess, and coerced confessions frequently were introduced as evidence. The Criminal Procedure Law forbids the use of torture to obtain confessions, but does not expressly bar the introduction of coerced confessions as evidence. In August, new public security regulations were announced banning the use of torture to obtain confessions and prohibiting the use of coerced confessions in certain administrative cases. However, the new regulations offer no mechanism for a defendant in an administrative case to ensure that his coerced confession is disregarded. Some provinces passed further regulations noting that police who coerced defendants into confessing could be fired. Nonetheless, defendants who failed to show the "correct attitude" by confessing their crimes often received harsher sentences.

During the year, the conviction rate in criminal cases remained at approximately 90 percent, and trials generally were little more than sentencing hearings. In practice, criminal defendants often were not assigned an attorney until a case was brought to court. The best that a defense attorney generally could do in such circumstances was to get a sentence mitigated. In many politically sensitive trials, which rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. There was an appeals process, but no statistics were available on the results of appeals. In practice, appeals rarely resulted in reversed verdicts.

The lack of due process was particularly egregious in death penalty cases. There were 65 capital offenses, including financial crimes such as counterfeiting currency, embezzlement, and corruption, as well as some other property crimes. A higher court nominally reviewed all death sentences, but the time between arrest and execution was often days and sometimes less, and reviews consistently resulted in the confirmation of sentences. Minors and pregnant women were expressly exempt from the death sentence. Tibetan Lobsang Dondrub was convicted of involvement in bombings in Sichuan Province without due process and executed the day after his appeal was rejected; despite assurances provided to diplomats that his case would be reviewed by the SPC, no review ever occurred (see Tibet Addendum). The Government regarded the number of death sentences it carried out as a state secret, but officials stated that the number of executions carried out decreased during the year, with a faster rate of decrease in Beijing than in outlying provinces.

The 1997 Criminal Procedure Law falls short of international standards in many respects. For example, it has insufficient safeguards against the use of evidence gathered through illegal means, such as torture, and it does not prevent extended pre- and post-trial detention (see Section 1.c. and 1.d.). Appeals processes failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. Furthermore, under the law, there is no right to remain silent, no right against double jeopardy, and no law governing the type of evidence that may be introduced. The mechanism that allows defendants to confront their accusers was inadequate; according to one expert, only 1 to 5 percent of trials involved witnesses. Accordingly, most criminal "trials" consisted of the procurator reading statements of witnesses whom neither the defendant nor his lawyer ever had an opportunity to question. Defense attorneys have no authority to compel witnesses to testify. Anecdotal evidence indicated that implementation of the Criminal Procedure Law remained uneven and far from complete, particularly in politically sensitive cases.

The Criminal Procedure Law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation; however, police often used loopholes in the law to circumvent defendants' right to seek counsel. Defendants in sensitive political cases frequently found it difficult to find an attorney. In some cases, defendants and lawyers in sensitive cases were not allowed to speak during trials. Even in non-sensitive trials, criminal defense lawyers frequently had little access to their clients or to evidence to be presented during the trial. Defendants in only one of every seven criminal cases had legal representation, according to credible reports citing internal government statistics. Government-employed lawyers still depended on official work units for employment, housing and other benefits, and therefore many were reluctant to represent politically sensitive defendants. The percentage of lawyers in the criminal bar reportedly declined from 3 percent in 1997 to 1 percent in 2001.

Some lawyers who tried to defend their clients aggressively continued to face serious intimidation and abuse by police and prosecutors. For example, according to Article 306 of the Criminal Law, defense attorneys could be held responsible if their clients commit perjury, and prosecutors and judges in such cases have wide discretion in determining what constitutes perjury. In December, prominent Beijing defense attorney Zhang

Jianzhong was sentenced to 2 years in prison on charges of assisting in the fabrication of evidence in a major corruption case. Originally denied the right to counsel, Zhang had been detained since May 3, 2002. He was due to be released in May 2004 after receiving credit for the 19 months he served in jail without a conviction. Chinese legal scholars claimed he was singled out for being too effective at representing criminal defendants, and approximately 600 lawyers signed a petition, which was submitted to the Supreme People's Procuratorate and the Supreme People's Court, demanding that Zhang be found not guilty. According to the All-China Lawyers Association, since 1997 more than 400 defense attorneys have been detained on similar charges. In September, legal advisor Ma Wenlin asked the Shaanxi Provincial Higher People's Court to overturn his 1999 conviction for "disturbing social order" based on his representation of peasants in a lawsuit to reduce their tax burden. Ma was released early in May, after 4 years in prison. In August, lawyers' professional associations held a major conference on criminal defense law, continuing demands for better protection of lawyers and their legitimate role in the legal process.

In recent years, the Ministry of Justice (MOJ) drafted regulations to standardize professional performance, lawyer-client relations, and the administration of lawyers and law firms. The regulations set educational requirements for legal practitioners, encourage free legal services for the general public, grant lawyers formal permission to establish law firms, and provide for the disciplining of lawyers. A growing number of lawyers organized private law firms that were self-regulating and did not have their personnel or budgets determined directly by the State. More than 60 legal aid organizations, many of which handled both criminal and civil cases, have been established around the country, and the MOJ established a nationwide legal services hotline.

The Supreme People's Court, the Supreme People's Procuratorate, and the MOJ also have issued regulations establishing standards, including an examination, for judges and prosecutors, but those regulations are not uniformly enforced. Recent regulations also require judicial or prosecutorial appointees to be law school graduates with a minimum period of experience in legal practice. However, a great number of sitting judges and procurators continued to serve despite having little or no legal training.

During the year, Chinese and foreign lawyers, law professors, legal journals, and jurists publicly pressed for faster and more systemic legal reform. Among the suggested reforms were the introduction of a more transparent system of discovery, the abolition of coerced confessions, abolition of all forms of administrative detention, a legal presumption of innocence, an independent judiciary, improved administrative laws, and adoption of a plea bargaining system.

Government officials denied holding any political prisoners, asserting that authorities detained persons not for their political or religious views, but because they violated the law; however, the authorities continued to confine citizens for reasons related to politics and religion. Thousands of political prisoners remained incarcerated, some in prisons and others in labor camps. According to human rights organizations, more citizens were in prison for political crimes during the year than at any time since 1992. The Government did not grant international humanitarian organizations access to political prisoners.

Although the crime of "counterrevolution" was removed from the criminal code in 1997, western NGOs estimated that approximately 500-600 persons remained in prison for the crime. Hundreds of others were serving sentences under the State Security Law, which covers similar crimes as the repealed crime of counterrevolution. Persons detained for counterrevolutionary offenses included labor activists Hu Shigen and Liu Jingsheng; writer Chen Yangbin; Inner Mongolian activist Hada; and dissidents Han Chunsheng, Liang Qiang, Yu Zhijian, Zhang Jingsheng, and Sun Xiongying. These prisoners rarely were granted sentence reductions or parole. Foreign governments urged the Government to review the cases of those charged before 1997 with counterrevolution and to release those who had been jailed for nonviolent offenses under the old statute. During the year, the Government held expert-level discussions with foreign officials on conducting such a review.

AI has identified 211 persons who remained imprisoned or on medical parole for their participation in the 1989 Tiananmen demonstrations; other NGOs estimated that as many as 2,000 persons remained in prison for their actions at that time.

In January, the Government permitted the early release of political dissident Fang Jue, and, in March, Tibetan nun Ngawang Sandrol was allowed to leave the country. The Government also released a few other political prisoners after granting them sentence reductions, including Internet activist Qi Yanchen and labor activist Kang Yuchun. However, CDP co-founders Wang Youcai and Qin Yongmin; Internet activists Xu Wei, Yang Zili, and Huang Qi; Uighur businesswoman Rebiya Kadeer; journalist Jiang Weiping; labor activists Yao Fuxin, Xiao Yunliang, and Liu Jingsheng; Catholic Bishop Su Zhimin; house church leaders Zhang Yinan, Liu Fenggang and Xu Yonghai; Tibetan nun Phuntsog Nyidrol; Uighur historian Tohti Tunyaz; and political dissident Yang Jianli, among many others, remained imprisoned or under other forms of detention during the year. Political prisoners generally benefited from parole and sentence reduction at significantly lower rates than ordinary prisoners.

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

Officials confirmed that executed prisoners were among the sources of organs for transplant but maintained that consent was required from prisoners or their relatives in advance of the procedure. There was no national law governing organ donations, but a Ministry of Health directive explicitly states that buying and selling human organs and tissues is not allowed. On August 22, the first local law regulating organ donation was passed in Shenzhen. It requires all organ donations to be voluntary, prohibits the sale or trade of human organs, provides for fines of \$60,000 (RMB 500,000) for violations, and grants the Shenzhen Red Cross sole authority to match donors and recipients. However, the law was expected to have limited impact due to its limited geographical jurisdiction, covering just the Shenzhen Special Economic Zone. There were no reliable statistics on how many organ transplants occurred using organs from executed prisoners; however, anecdotal evidence, testimony of former officials and doctors, and the numbers of post-transplant patients seeking follow-up care in Western countries indicated that it is a significant number.

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

The Constitution states that the "freedom and privacy of correspondence of citizens are protected by law"; however, the authorities often did not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored; moreover, the Public Security Bureau and the Procuratorate could issue search warrants on their own authority. During the year, authorities monitored telephone conversations, facsimile transmissions, e-mail, text-messaging, and Internet communications. Authorities also opened and censored domestic and international mail. The security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines. All major hotels had a sizable internal security presence, and hotel guestrooms were sometimes searched for sensitive materials.

In urban areas, many persons depended on government-linked work units for housing, healthcare, and other aspects of ordinary life. However, the work unit and the neighborhood committee, which originally were charged with monitoring activities and attitudes, have become less important as means of social and political control, and government interference in daily personal and family life continued to decline for most citizens. In some areas, citizens still were required to apply for government permission before having a child, and the Government continued to restrict the number of births. During the year, the Government amended a regulation so that couples seeking to get married no longer require permission from their work units.

Cases of forced entry by police officers continued to be reported. However, after state media widely reported a police raid on the home of a married couple watching a legal adult movie in Shaanxi Province, police authorities asserted that private personal conduct not forbidden by law would no longer be subject to police interference. For this and other reasons, government officials, including Minister of Public Security Zhou Yongkang, emphasized in several public statements that police must do a better job of respecting citizens' human rights. In October, the Third Party Plenum formally approved a constitutional amendment that will, if approved at the March 2004 session of the National People's Congress, put the protection of individual rights into China's constitution for the first time.

Some dissidents were under heavy surveillance and routinely had their telephone calls monitored or phone service disrupted. The authorities blocked some dissidents from meeting with foreigners during politically sensitive periods. Police in Beijing ordered several dissidents not to meet with Western journalists or foreign diplomats during the visits of high-level foreign officials. The authorities also confiscated money sent from abroad that was intended to help dissidents and their families.

Major political events and visits by high-ranking foreign officials routinely sparked roundups of dissidents. For example, immediately before and after the 16th Party Congress in November 2002, authorities detained a number of activists who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre (see Section 1.d.). Similarly, dissidents reported greater surveillance and harassment from public security officials during the National People's Congress in March, before the June 4 anniversary of the Tiananmen crackdown, and before the October 1 National Day.

Authorities also harassed relatives of dissidents and monitored their activities. Security personnel kept close watch on relatives of prominent dissidents, particularly during sensitive periods. For example, security personnel followed the family members of political prisoners to meetings with Western reporters and diplomats. Dissidents and their family members routinely were warned not to speak with the foreign press. Police sometimes detained the relatives of dissidents (see Section 2.a.).

Official poverty alleviation programs and major state projects have included forced relocation of persons to new residences. The Government estimated that at least 1.2 million persons have been relocated for the Three Gorges Dam project on the Yangtze River.

Forced relocation because of urban redevelopment was common, sometimes resulting in protests over relocation terms or compensation. The case of Shanghai housing lawyer Zheng Enchong prompted significant public protest over urban relocation. In October, Zheng was sentenced to 3 years' imprisonment in connection with his advocacy on behalf of hundreds of Shanghai residents displaced in a controversial urban redevelopment project. Legal proceedings in Zheng's case prompted many demonstrations, including one planned to involve hundreds on National Day at Tiananmen Square. That protest was prevented by police. Many of the protesters were detained for short periods in Beijing and Shanghai. Some protest leaders were prosecuted and sentenced to reeducation through labor (see Sections 2.b. and 3).

The Population and Family Planning Law, the country's first formal law on this subject, entered into force on September 1, 2002. The National Population and Family Planning Commission (NPFPC) enforces the law and formulates and implements policies with assistance from the Birth Planning Association, which had 1 million branches nationwide. The law is intended to standardize the implementation of the Government's birth limitation policies; however, enforcement continued to vary from place to place. The law grants married couples the right to have a single child and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. Many provincial regulations require women to wait 4 years or more after their first birth before making such an application. The law requires counties to use specific measures to limit the total number of births in each county. The law further requires couples to employ birth control measures. According to a September 2002 U.N. survey, the percentage of women who select their own birth control method grew from 53 percent in 1998 to 83 percent in 2000. The law requires couples who have an unapproved child to pay a "social compensation fee" and grants preferential treatment to couples who abide by the birth limits. Although the law states that officials should not violate citizens' rights, neither those rights nor the penalties for violating them are defined. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

The law delegates to the provinces the responsibility of drafting implementing regulations, including establishing a scale for assessment of social compensation fees, but State Council Decree 357 provides general principles to guide local authorities. This decree also requires family planning officials to obtain court approval for taking "forcible" action, such as confiscation of property, against families that refuse to pay social compensation fees.

The one-child limit was more strictly applied in the cities, where only couples meeting certain conditions (e.g., both parents are only children) were permitted to have a second child. In most rural areas (including towns of under 200,000 persons), where approximately two-thirds of citizens lived, the policy was more relaxed, generally allowing couples to have a second child if the first was a girl or disabled. Ethnic minorities, such as Muslim Uighurs and Tibetans, were subject to much less stringent population controls (see Tibet Addendum). In remote areas, limits generally were not enforced, except on government employees and Party members. Local officials, caught between pressures from superiors to show declining birth rates, and from local citizens to allow them to have more than one child, frequently made false reports. The NPFPC estimated fertility at 1.8 births per woman, a figure roughly confirmed by the 2000 census. It claimed that the yearly growth rate of the population has dropped to less than 1 percent per year.

Authorities continued to reduce the use of targets and quotas, although over 1,900 of the country's 2,800 counties continued to use such measures. Authorities using the target and quota system require each eligible married couple to obtain government permission before the woman becomes pregnant. In many counties, only a limited number of such permits were made available each year, so couples who did not receive a permit were required to wait at least a year before obtaining permission. Counties that did not employ targets and quotas allowed married women of legal child-bearing age to have a first child without prior permission.

The country's population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. Psychological and economic pressure were very common; during unauthorized pregnancies, women sometimes were visited by birth planning workers who used the threat of social compensation fees to pressure women to terminate their pregnancies. The fees were assessed at widely varying levels and were generally extremely high. Reliable sources reported that the fees ranged from one-half to eight times the average worker's annual disposable income. Local officials have authority to adjust the fees downward and did so in many cases. Additional disciplinary measures against those who violated the limited child policy by having an unapproved child or helping another to do so included the withholding of social services, higher tuition costs when the child goes to school, job loss or demotion, loss of promotion opportunity, expulsion from the Party (membership in which was an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of property. These penalties sometimes left women little practical choice but to undergo abortion or sterilization. Rewards for couples who adhered to birth limitation laws and policies included monthly stipends and preferential medical and educational benefits. In the cases of families that already had two children, one of the parents was usually pressured to undergo sterilization.

According to previously published local regulations in at least one province, women who do not qualify for a Family Planning Certificate that allows them to have a child must use an intrauterine device (IUD) or implant. The regulations further require that women who use an IUD undergo quarterly exams to ensure that it remains properly in place. In another province, rules state that "unplanned pregnancies must be aborted immediately." In some counties, women of childbearing age were required periodically to undergo pregnancy tests.

At the same time, the Government maintained that, due to economic development and other factors such as small houses, both parents working full-time, and high education expenses, couples in major urban centers often voluntarily limited their families to one child.

The Population and Family Planning Law delegates to the provinces the responsibility of implementing appropriate regulations to enforce the law. By year's end, all provincial-level governments except the TAR had amended their regulations. Anhui Province, for example, passed a law permitting 13 categories of couples, including coal miners, some remarried divorcees, and some farm couples, to have a second child. The law does not require such amendments, however, unless existing regulations conflict with it. Existing regulations requiring sterilization in certain cases, or mandatory abortion, are not contradicted by the new law, which says simply that compliance with the birth limits should "mainly" be achieved through the use of contraception.

Central Government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. Because it is illegal, the use of physical coercion was difficult to document. A few cases were reported during the year, but most observers believed that the frequency of such cases was declining. In May, officials in Anhui Province who tried to force a woman to be sterilized were reprimanded after the woman informed national family planning officials that she knew it was her right under the law to choose her method of birth control.

Senior officials stated repeatedly that the Government "made it a principle to ban coercion at any level," and the NPFPC has issued circulars nationwide prohibiting birth planning officials from coercing women to undergo abortions or sterilization against their will. However, the Government does not consider social compensation fees and other administrative punishments to be coercive. Under the State Compensation Law, citizens also may sue officials who exceed their authority in implementing birth planning policy, and, in a few instances, individuals have exercised this right.

Corruption related to social compensation fees reportedly decreased after the 2002 passage of State Council Decree 357, which established that collected "social compensation fees" must be submitted directly to the National Treasury rather than retained by local birth planning authorities. NPFPC officials reported in 2002 that they responded to more than 10,000 complaints against local officials.

In March, the U.N. Population Fund (UNFPA) concluded a 4-year pilot project in 32 counties. Under this program, local birth planning officials emphasized education, improved reproductive health services, and economic development, and they eliminated the target and quota systems for limiting births. However, these counties retained the birth limitation policy, including the requirement that couples employ effective birth control methods, and enforced it through other means, such as social compensation fees. Subsequently, 800 other counties also removed the target and quota system and tried to replicate the UNFPA project by emphasizing quality of care and informed choice of birth control methods. In April, a new UNFPA program began in 30 counties. Under this program, officials defined a list of "legitimate rights of reproduction according to law," including the rights to choose contraception and right to legal remedies, among others.

In order to delay childbearing, the Marriage Law sets the minimum age at marriage for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to bear a child, and social compensation fees have been levied on unwed mothers. The Government stated that the practice of levying social compensation fees for "pre-marriage" births was abolished on an experimental basis in some counties during the year. In 2002, Jilin Province passed a law making it legal, within the limits of the birth limitation law, for an unmarried woman who "intends to remain single for life" to have a child.

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations with the traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate these pregnancies (see Section 5). The use of ultrasound for this purpose is prohibited specifically by the Population Law and by the Maternal and Child Health Care Law, both of which mandate punishment of medical practitioners who violate the provision. During the year, new regulations were issued that specifically forbid sex-selective abortions. According to the NPFPC, few doctors have been charged under these laws. The most recent official figures, from November 2000, put the overall male to female birth ratio at 116.9 to 100 (as compared to the statistical norm of 106 to 100). For second births, the national ratio was 151.9 to 100.

The Maternal and Child Health Care Law requires premarital and prenatal examinations in part to determine whether couples have acute infectious diseases or certain mental defects or are at risk for passing on debilitating genetic diseases. The law states that abortion or sterilization are recommended in some cases. In

practice, however, most regions of the country still did not have the medical capacity to determine accurately the likelihood of passing on debilitating genetic diseases.

Lack of informed consent was a general problem in the practice of medicine throughout the country.

As of 2001, the China Psychiatric Association no longer listed homosexuality as a mental illness. Many gays and lesbians saw the move as a hopeful sign of increased official tolerance. In major cities, gays and lesbians sometimes could gather publicly for social purposes, but societal discrimination caused most social gatherings to remain private.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution states that freedom of speech and freedom of the press are fundamental rights to be enjoyed by all citizens; however, the Government tightly restricted these rights in practice. The Government interpreted the Party's "leading role," as mandated in the preamble to the Constitution, as circumscribing these rights. The Government strictly regulated the establishment and management of publications. The Government did not permit citizens to publish or broadcast criticisms of senior leaders or opinions that directly challenged Communist Party rule. The Party and Government continued to control many and, on occasion, all print and broadcast media tightly and used them to propagate the current ideological line. All media employees were under explicit, public orders to follow CCP directives and "guide public opinion," as directed by political authorities. Both formal and informal guidelines continued to require journalists to avoid coverage of many politically sensitive topics. These public orders, guidelines, and statutes greatly restricted the freedom of broadcast journalists and newspapers to report the news and led to a high degree of self-censorship. The Government continued an intense propaganda campaign against the Falun Gong.

The Government continued to threaten, arrest, and imprison persons exercising free speech. Internet essayists in particular were targeted.

Many individuals were jailed for their Internet publications during the year. In January, Tao Haidong was sentenced in Urumqi, Xinjiang, to 7 years in prison for "incitement to subvert state power" based on articles on democracy he posted on the Internet. In May, Sichuan website manager Huang Qi, founder of a site for missing persons from the 1989 Tiananmen crackdown, was sentenced to 5 years in prison. Also in May, four students belonging to the New Youth Study Group--Yang Zili, Xu Wei, Jin Haike, and Zhang Honghai--who used the Internet to circulate articles on political and social topics received sentences of 8 to 10 years for subversion. Their appeal to the Supreme People's Court was denied in November. Three of the four witnesses who testified against them at trial recanted their stories, but the SPC refused to hear testimony from these witnesses on appeal. In October, Internet essayist Luo Yongzhong from Jilin Province was sentenced to 3 years in prison after publishing articles on overseas websites calling for democracy and human rights. On October 29, Internet writer Du Daobin in Hubei Province was detained and later charged with distributing articles that "subverted state power." At year's end, he was awaiting trial. The legal credentials of Du's attorney were cancelled because he agreed to represent Du. In November, Beijing Normal University student Liu Di, website publisher Li Yibin, and Wu Yiran were released on bail after a year in detention. The court returned their file to prosecutors because of insufficient evidence but sentenced their alleged confederate Jiang Lijun to 4 years in prison for subversion. On December 8, Xian teacher Yan Jun was sentenced to 2 years for subversion based on his Internet postings. On December 10, Sichuan local government official Li Zhi was sentenced to 8 years for subversion in connection with his on-line writings about corruption and democracy. Sichuan Internet writer Ouyang Yi has been detained since December 2002 on charges of incitement to subvert state power. He was tried on October 15, but no verdict in his case was issued by year's end. In December, factory worker Kong Youping was detained for posting political articles and poems on the Internet. The NGO Reporters Without Borders reported that, between November 1 and December 15 alone, 9 persons were convicted and sentenced to prison terms of 2 to 10 years in jail for putting messages critical of the Government on the Internet. The group named China "the biggest jail in the world for cyberdissidents," stating that the country has jailed 48 persons for their Internet writing in recent years.

Journalists who reported on sensitive topics also continued to suffer harassment, detention, and imprisonment. For example, South Korean photojournalist Seok Jae Hyun was imprisoned in January while photographing North Korean refugees trying to board boats headed for South Korea and Japan (see Section 2.d.). In May, he was sentenced to 2 years in prison. Reporter Jiang Weiping, who had written a series of articles exposing official corruption in Liaoning Province, remained in prison, although his sentence was reduced from 8 to 6 years. The Committee to Protect Journalists again assessed China as "the world's leading jailer of journalists," with 39 journalists imprisoned at year's end.

Some Chinese remained active and continued to speak out, despite the Government's restrictions on freedom of speech. For example, in April, Dr. Jiang Yanyong disclosed that the spread of SARS in Beijing, particularly in military hospitals, had been significantly under-reported. This disclosure ultimately contributed to broader

acknowledgment of the extent of the spread of SARS. In June, scholar Cao Siyuan convened a symposium that proposed constitutional amendments to establish a Constitutional Court, incorporate human rights, provide "freedom of speech, publication, and association without pre-approval," and to allow direct elections. While neither person was formally detained, both were followed by public security officials and at times forbidden from contact with foreigners or the media.

There were a few privately owned print publications, but they were subject to pre- and post-publication censorship. There were no privately owned television or radio stations, and all programming had to be approved by the Government.

The Communist Party continued to control tightly media and academic discussion of many political topics. In March, reporting about the National People's Congress was strictly controlled, and the Beijing newspaper 21st Century World Herald was closed for publishing articles on political reform deemed too controversial. In June, the weekly newspaper Beijing Xinbao was closed and its editors fired after it published an article that mocked Party officials. In July, the Government issued a directive known as "The Three Forbiddens." According to western media reports, it banned open discussion of constitutional reform, political reform, and reconsideration of the June 4, 1989 Tiananmen movement. More broadly, in a June meeting, the Communist Party's Propaganda Department advised all media to avoid the following sensitive topics: Dr. Jiang Yanyong's communication with foreigners about SARS, the Sun Zhigang case (see Section 1.c.), corruption cases against Shanghai-based businessman Zhou Zhengyi and Chinese/Dutch national Yang Bin, an April submarine accident that killed all 70 sailors on board, and nuclear weapons in the DPRK.

Censorship related to SARS was particularly controversial. On February 11, Guangzhou municipal authorities held a press conference announcing over 300 SARS cases in Guangzhou. Afterward, from February through April, domestic news outlets were prohibited from discussing the disease. Reporting about the causes and extent of SARS was also strictly controlled. For example, in February, Guangdong Province's Southern Metropolitan Daily newspaper was sanctioned for publishing articles that contradicted the Government line that SARS was caused by the chlamydia virus. On April 14, the Government publicly acknowledged that the SARS epidemic was more serious than previously admitted, and it punished some officials for underreporting SARS cases. Some hailed this as a new sign of openness by the Government. The Government held live televised press conferences to answer questions about SARS. However, newspapers and magazines whose reporting on SARS exceeded limits set by government censors continued to face closure and other sanctions. The June 20 edition of Caijing, an influential business news magazine, was withdrawn from newsstands. It contained an article on the impact of SARS and another on a bank loan scandal linked to Government officials. Caijing's previous edition had published an interview with SARS informant Dr. Jiang Yanyong.

Discussion of corruption also was tightly controlled. Newspapers could not report on corruption without government and Party approval, and publishers published such material at their own risk. In recent years, journalists and sometimes editors have been harassed, detained, threatened, and even imprisoned for reporting on subjects that met with the Government's or local authorities' disapproval, including corruption. During the year, journalists and editors who exposed corruption scandals frequently faced problems with the authorities, and the Government continued to close publications and punish journalists for printing material deemed too sensitive.

Government restrictions on the press and the free flow of information continued to prevent accurate reporting on the spread of HIV/AIDS. This problem was particularly acute in Henan Province. Henan health official Ma Shiwen was detained for several months before his release in October. Ma had allegedly provided information to NGOs about villagers who became infected with HIV after selling blood (see Section 1.d.). Henan provincial officials attempted to prevent 77-year-old Dr. Gao Yaojie, an advocate for AIDS orphans, from attending an AIDS forum at Beijing's Qinghua University in November.

For several years, journalists openly have called for legislation granting press freedom protection, without success. New regulations reported during the year required government officials to accept supervision by the media and public on all matters except those involving state security.

The Government kept tight control over the foreign press during the year and continued efforts to prevent foreign media "interference" in internal affairs. The international edition of Time Magazine has been banned since an article appeared in 2001 on the Falun Gong.

The publishing industry consists of three kinds of book businesses: approximately 560 government-sanctioned publishing houses, smaller independent publishers that cooperated with official publishing houses to put out more daring publications, and an underground (illicit) press. The government-approved publishing houses were the only organizations legally permitted to print books. The Communist Party exerted control over the publishing industry by preemptively classifying certain topics as off-limits; selectively rewarding with promotions and perks those publishers, editors, and writers who adhered to Party guidelines; and punishing those who did not adhere to Party guidelines with administrative sanctions and blacklisting. Some independent publishers took advantage of a loophole in the law to sign contracts with government publishing houses to publish

politically sensitive works. These works generally were not subjected to the same multi-layered review process as official publications of the publishing houses.

Underground printing houses have been targets of periodic campaigns to stop all illegal publications (including pornography and pirated computer software and audiovisual products). These campaigns had the effect of restricting the availability of politically sensitive books. State-run media reported that over 300,000 pirated or pornographic books were destroyed in a public event held in July in Beijing.

Many intellectuals and scholars, anticipating that books or papers on political topics would be deemed too sensitive to be published, exercised self-censorship. Overt intervention by the State Press and Publications Administration and Party Propaganda Department mostly occurred after publication. In areas such as economic policy or legal reform, there was far greater official tolerance for comment and debate. Criticism of Central Government authorities continued to remain largely off-limits. Among books banned during the year were a new biography of former Premier Zhou Enlai, "The True Face of China's June Fourth," and "The Destruction of China." Books once published legitimately and circulated widely, such as "I Tell the Truth to the Premier," a controversial indictment of the Party's rural policies, were reportedly ordered off shelves during the year. In March 2002, the Department of Cultural Affairs in Urumqi, Xinjiang, ordered the destruction of thousands of books on Uighur history and culture. The books detailing and documenting Uighur history originally had been published with the approval of the authorities. Content about the Tiananmen Square student movement and the Dalai Lama, among other passages, was censored in U.S. Senator Hillary Clinton's book, "Living History." Chinese publishers reported that increasing commercialization of their industry led to tension between ideological constraints and market imperatives.

In June, the Government ended the practice of forcing government work units to subscribe to official newspapers, forcing many official newspapers to compete for readership or face insolvency.

The authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), Radio Free Asia (RFA) and the British Broadcasting Corporation (BBC). English-language broadcasts on VOA generally were not jammed, unless they immediately followed Chinese-language broadcasts, in which case portions of the English-language broadcasts were sometimes jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. Despite jamming, in the absence of an independent press, overseas broadcasts such as VOA, BBC, RFA, and Radio France International had a large audience, including activists, ordinary citizens, and even government officials.

The Government prohibited some foreign and domestic films from appearing in the country. Television broadcasts of foreign programming, which largely were restricted to hotel and foreign residence compounds, also suffered from occasional censorship of topics including sensitive political issues and SARS.

The Government continued to encourage expanded use of the Internet; however, it also took steps to increase monitoring of the Internet and continued to place restrictions on the information available. While only a very small percentage of the population accessed the Internet, use among intellectuals and opinion leaders was widespread and growing rapidly. Young persons, both urban and rural, accounted for the greatest number of Internet users. According to a quasi-government report, the number of Internet users at the end of 2002 was 59.1 million. During the year, industry officials estimated the number of users at 80-100 million, with only 27 percent of those in the urban centers of Beijing, Shanghai, and Guangzhou.

China's Internet control system employed more than 30,000 persons and was allegedly the largest in the world. According to a 2002 Harvard University report, the Government blocked at least 19,000 sites during a 6-month period and may have blocked as many as 50,000. At times, the Government blocked the sites of some major foreign news organizations, health organizations, educational institutions, Taiwanese and Tibetan businesses and organizations, religious and spiritual organizations, democracy activists, and sites discussing the June 4 Tiananmen massacre. The number of blocked sites appeared to increase around major political events and sensitive dates. The authorities reportedly began to employ more sophisticated technology enabling the selective blocking of specific content rather than entire websites in some cases. Such technology was also used to block e-mails containing sensitive content. The Government generally did not prosecute citizens who received dissident e-mail publications, but forwarding such messages to others sometimes did result in detention. Internet usage reportedly was monitored at all terminals in public libraries.

The Ministry of Information Industry regulated access to the Internet while the Ministries of Public and State Security monitored its use. Regulations prohibit a broad range of activities that authorities have interpreted as subversive or as slanderous to the state, including the dissemination of any information that might harm unification of the country or endanger national security. Promoting "evil cults" was banned, as was providing information that "disturbs social order or undermines social stability." Internet service providers (ISPs) were instructed to use only domestic media news postings, record information useful for tracking users and their viewing habits, install software capable of copying e-mails, and immediately end transmission of so-called subversive material. Many ISPs practiced extensive self-censorship to avoid transgressing the very broadly worded regulations. A study released in May by Reporters Without Borders reported that only 30 percent of

messages with "controversial content" were allowed onto Chinese "chatroom" websites. The remaining 70 percent of messages were filtered out by censors or removed by the site host.

The State Council has promulgated a comprehensive list of prohibited Internet activities, including using the Internet to "incite the overthrow of the Government or the Socialist system" and to "incite division of the country, harming national unification."

In addition to imprisoning several persons during the year for disseminating information through the Internet, the Government detained several individuals for using the Internet to express support for other detained Internet activists. NGOs reported that several people were detained during the year for expressing support for detained Beijing Normal University Internet writer Liu Di. Those detained for expressing on-line support for Liu included Kong Youping, Yuan Langsheng, Cai Lujun, Luo Changfu, and a 17-year old Henan girl identified only as Zheng. Liu Di's case sparked this reaction because she herself was detained for expressing sympathy for another Internet activist, Sichuan website manager Huang Qi. In November, Liu was released on bail after a court found that the evidence against her was insufficient; however, some persons detained for supporting her remained in custody at year's end (see Section 1.d.).

In 2002, the Government began a "Public Pledge on Self Discipline for China's Internet Industry" drive. More than 300 companies signed up, including the popular Sina.com and Sohu.com, as well as foreign-based Yahoo!'s China division. Those who signed the pledge agreed not to spread information that "breaks laws or spreads superstition or obscenity." They also promised to refrain from "producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability."

In 2002, the country had more than 200,000 Internet cafes. In response to the health crisis caused by SARS, the authorities closed all of the nation's Internet cafes on April 27. Beijing cafes stayed closed until August, while cafes in Shanghai and Sichuan reopened sooner.

During the year, the Government announced new plans to censor simple messaging system text messages distributed by mobile telephone. The country's largest service provider, China Mobile, reported in July that its customers sent an estimated 40 billion text messages in 2002.

The Government did not respect academic freedom and continued to impose ideological controls on political discourse at colleges, universities, and research institutes. Scholars and researchers reported varying degrees of control regarding issues they could examine and conclusions they could draw. For example, several professors were warned against calling for abolition of reeducation through labor after the beating death of inmate Zhang Bin (see Section 1.c.). Participants at a June conference on constitutional reform faced harassment by public security officials. Government decrees, such as the "three forbiddens," significantly interfered with academic freedom. Scholar Xu Zerong remained in prison for "illegally providing state secrets" by sending sensitive reference materials on the Korean War to a contact in Hong Kong.

The Government continued to use political attitudes as criteria for selecting persons for government-sponsored study abroad, but did not impose such restrictions on privately sponsored students, who constituted the majority of students studying abroad.

Researchers residing abroad also have been subject to sanctions from the authorities when their work did not meet with official approval.

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

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

At times, police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. The most widely publicized demonstrations in recent years were those of the Falun Gong spiritual movement. The Government continued to wage a severe political, propaganda, and police campaign against the Falun Gong movement. Since the Government banned the Falun Gong in 1999, mere belief in the discipline, without any outward manifestation of its tenets, has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment, and in many cases, to suffer torture and death (see Sections 1.a. and 2.c.). In many cases, Falun Gong practitioners were subject to close scrutiny by local security personnel, and their personal mobility was tightly restricted, particularly at times when the Government believed public protests were likely.

The number of protests by individuals or small groups of Falun Gong practitioners at Tiananmen Square

remained very low during the year. Some observers attributed this to the effectiveness of the sustained government crackdown, which, by the end of 2001, had essentially eliminated public manifestations of the movement. Authorities also briefly detained foreign practitioners who attempted to unfurl banners on Tiananmen Square or pass out leaflets, in most cases deporting them after a few hours.

In many cases, the authorities dealt with demonstrations about economic issues more leniently than with those that addressed political issues, but some economic demonstrations were dispersed by force. During the year, Ministry of Public Security publications indicated that the number of demonstrations was growing and that protesters were becoming more organized. Some of these demonstrations included thousands of participants.

The vast majority of legal and illegal demonstrations that occurred during the year concerned economic and social issues such as housing, health, and welfare. Labor protests over the downsizing of SOEs and resulting unemployment in the country's northeastern provinces continued but were smaller in scale than in 2002. However, protests by workers seeking unpaid wages continued throughout the country, including among migrant laborers and construction workers who often were paid in one installment before Chinese New Year and who demonstrated when employers withheld their salaries or underpaid them (see Section 6.b.). In May, labor leaders Yao Fuxin and Xiao Yunliang received prison sentences of 7 and 4 years, respectively, for their roles in leading large 2002 protests by factory workers demanding backpay and other benefits (see Section 6.b.). The Government denied requests by Liaoyang workers for a permit to protest Yao and Xiao's imprisonment. In April, some 200 persons reportedly protested the construction of a hospital for quarantining SARS patients between Beijing and Tianjin municipalities. Similar protests over SARS quarantine hospitals were reported in other provinces, with some resulting in arrests. Protests by persons with HIV/AIDS occurred in Henan Province and other central provinces and were sometimes met with violence or arrests. On May 17, 100 AIDS patients protested lack of health care in Wenlou village hospital and at least one protester reportedly was severely beaten. In June, after a few HIV/AIDS protesters were detained in Xiongqiao village, Henan Province, hundreds of police officers reportedly were sent into the village, where they beat several protesters and detained over a dozen others. The scope of police reaction produced widespread international concern. Demonstrations of over 100 persons protesting property relocation resulted in arrests in Shanghai. On August 28, in Shanghai, over 200 persons demonstrated to protest the trial of attorney Zheng Enchong, who represented residents dislocated in an urban relocation scheme. The demonstration reportedly resulted in arrests when police sought to disperse the crowd. Before National Day on October 1, security officials briefly detained more than 80 persons for their plans to participate in a Tiananmen Square protest about urban development and the relocation of residents.

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

No laws or regulations specifically govern the formation of political parties. The Government continued to use surveillance, detention, and prison terms to suppress the CDP (see Section 3).

According to government statistics, at the end of 2002, there were approximately 133,000 social organizations, including 1,712 national-level and cross-provincial organizations, 20,069 provincial organizations, and 52,386 local and county-level organizations registered with the Ministry of Civil Affairs. There were 111,000 private, nonprofit corporations registered. Experts estimated that there were at least 1 million, and perhaps as many as 2 million, unregistered NGOs. Although these organizations all came under some degree of government control, some were able to develop their own agendas. Some had support from foreign secular and religious NGOs. Some were able to undertake limited advocacy roles in such public interest areas as women's issues, the environment, health, and consumer rights. NGOs were required to register with the Government, which has 2 months in which to grant approval. To register, an NGO must obtain an organizational sponsor, have an official office, and hold a minimal amount of funds (for local-level NGOs, at least \$3,600 (RMB 30,000); for national-level groups, at least \$12,000 (RMB 100,000)). According to government guidelines, NGOs must not advocate non-party rule, damage national unity, or upset ethnic harmony. Groups that disobeyed guidelines and unregistered groups that continued to operate could face administrative punishment or criminal charges. During the year, the Beijing Municipal Civil Affairs Bureau ordered 51 organizations to close for failure to register. It was difficult to estimate how many groups may have been discouraged from organizing NGOs because of these regulations. However, preexisting groups reported little or no additional interference by the Government since NGO registration regulations came into effect in 1998.

#### c. Freedom of Religion

The Constitution provides for freedom of religious belief and the freedom not to believe; however, the Government sought to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. There are five official

religions: Buddhism, Taoism, Islam, Protestantism, and Catholicism. A government-affiliated association monitored and supervised the activities of each of the five faiths. Membership in religions was growing rapidly. While the Government generally did not seek to suppress this growth outright, it tried to control and regulate religious groups to prevent the rise of sources of authority outside the control of the Government and the Party.

Overall, government respect for religious freedom remained poor. Even though freedom to participate in religious activity increased in many areas of the country, crackdowns in some locations against unregistered groups, including underground Protestant and Catholic groups; Muslim Uighurs; and Tibetan Buddhists (see Tibet Addendum) continued. The Government continued its repression of groups that it determined to be "cults" and of the Falun Gong spiritual movement in particular. During the SARS crisis, the Government arrested hundreds of Falun Gong adherents and others whom it accused of preaching doomsday messages and disrupting anti-SARS activity. The atmosphere created by the nationwide campaign against Falun Gong reportedly had a spillover effect on unregistered churches, temples, and mosques in many parts of the country.

All religious groups and spiritual movements were required to register with the State Administration for Religious Affairs (SARA, formerly known as the central Religious Affairs Bureau) or its provincial and local offices (still known as Religious Affairs Bureaus (RABs)). SARA and the RABs were responsible for monitoring and judging the legitimacy of religious activity. SARA and the Communist Party's United Front Work Department provided policy "guidance and supervision" over implementation of government regulations on religious activity. In December 2001, all members of the Politburo Standing Committee attended a Party Work Conference on religion at which then-President Jiang Zemin and then-Premier Zhu Rongji gave speeches praising the social work being done by numerous religious institutions. They urged "mainstream" religious groups to register with the Government and, at the same time, called for stepped-up measures to eliminate "non-mainstream" religious groups.

This national campaign to require religious groups and places of worship to register or to come under the supervision of official "patriotic" religious organizations continued and, in some places, intensified during the year. Some groups registered voluntarily, some registered under pressure, some avoided officials in an attempt to avoid registration, and authorities refused to register others. Some unofficial groups reported that authorities refused their registration without explanation. The Government contended that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Many religious groups were reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they revealed, as required, the names and addresses of church leaders and members.

However, in some areas, supervision of religious activity was minimal, and registered and unregistered churches were treated similarly by authorities. Coexistence and cooperation between official and unofficial churches, both Catholic and Protestant, in such areas were close enough to blur the line between the two. In some areas, congregants worshiped in both types of churches. In others, underground churches procured Bibles with the help of colleagues in registered churches. In many areas, small house churches and "family" churches were generally tolerated by the authorities, so long as they remained small and unobtrusive. Some of these churches reportedly encountered difficulty when their memberships became too large, when they arranged for the use of facilities for the specific purpose of conducting religious activities, or when they forged links with other unregistered groups or when links with overseas organizations came to light. Official churches also sometimes have faced harassment when local authorities wished to acquire the land on which a church was located. In addition to refusing to register churches, in recent years there have been reports that RAB officials demanded illegal "donations" from churches in their jurisdictions in order to raise revenue.

Leaders of unauthorized groups were sometimes the targets of harassment, interrogation, detention, and physical abuse. Police closed scores of "underground" mosques, temples, seminaries, Catholic churches, and Protestant "house churches," including many with significant memberships, properties, financial resources, and networks. Authorities particularly targeted unofficial religious groups in locations where there were rapidly growing numbers of unregistered churches, or in places of long-seated conflict between official and unofficial churches, such as with Catholics in Baoding, Hebei Province, and Chengde, Fujian Province.

The Government intensified pressure against Protestant house churches and their leaders during the year. In April and May, Protestant house churches in Anshan, Liaoning Province, reportedly were raided and worshippers detained. In June, six house churches in locations across the Inner Mongolia Autonomous Region were reportedly closed by authorities and their leaders detained. In June, underground Christians in Funing County, Yunnan Province, were detained for several days after they attended a meeting with local officials to ostensibly discuss registration. Also in June, an unofficial seminary in Kunming, Yunnan Province, was closed and some of the students were detained. In September, house church historian Zhang Yinan and legal advisor to the South China Church Xiao Biguang were among approximately 100 Christians detained in Nanyang, Henan Province. While Xiao was released a month later, Zhang was sentenced to 2 years of reeducation through labor. He was reportedly beaten in the camp. In October, Beijing-based house Christian Liu Fenggang was detained in Xiaoshan, Zhejiang Province, for conducting an investigation into reports of church demolitions and detention of leaders in the Local Assembly ("Little Flock") church. In July, a large church was reportedly closed by police; many worshippers were detained briefly and church leaders were "invited to attend a

seminar" for a number of days before being permitted to return home. Liu was charged with illegally providing state secrets to foreign entities, a charge activists believe was related to Liu's providing information about his investigation to overseas NGOs. Beijing police also seized Liu's computer equipment and files. Two other house Christians, Beijing homeless advocate Dr. Xu Yonghai and Jilin Internet writer Zhang Shengqi, also remained detained at year's end, allegedly for supporting Liu.

A number of Catholic priests and lay leaders also were beaten or otherwise abused during the year. For example, underground Catholic officials in Fujian and Jiangxi provinces were harassed and detained in April and May. On June 16, a priest in Wenzhou, Zhejiang Province, was detained while preparing to administer sacraments to a dying Catholic. In Hebei Province, where approximately half of the country's Catholics reside, friction between unofficial Catholics and local authorities continued. Hebei authorities have forced many underground priests and believers to choose between joining the Patriotic Church or facing fines, job losses, periodic detentions, and, in some cases, the removal of their children from school. Some Catholics have been forced into hiding. In July, five underground clergy in Baoding, Hebei Province, reportedly were detained when they attempted to visit a priest recently released from reeducation through labor. Reliable sources also reported that Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Quanjun remained detained in Hebei Province. Underground Bishop Su Zhimin, who had been unaccounted for since his reported detention in 1997, was reportedly hospitalized in November for treatment of eye and heart ailments in Baoding, Hebei Province. Reports suggest that he had been held in a form of "house arrest" until his illness required hospitalization. Authorities sometimes used house arrest against religious leaders to avoid going through the official security and justice systems. The Government continued to deny any knowledge of Bishop Su's whereabouts or health condition and claimed that it had not taken any "coercive measures" against him.

Authorities also have destroyed or seized unregistered places of worship. On June 6, a church in Xiaoshan, Zhejiang Province, was torn down, although local officials maintain the demolition occurred for zoning reasons. On September 10, a church in Wenzhou, Zhejiang, was reportedly torn down because it was used to hold illegal gatherings. Visitors to Xinjiang Autonomous Region also reported that mosques have been destroyed, although some attributed the demolition as much to inter-religious conflict between Hui and Uighur Muslims as to Government antagonism. Leaders of the official Christian church reported mixed success in regaining use of Church property confiscated by the Government shortly after the 1949 Communist revolution.

The Government continued to restore or rebuild some churches, temples, mosques, and monasteries damaged or destroyed during the Cultural Revolution and allowed the reopening of some seminaries during the year. The number of restored and rebuilt temples, churches, and mosques remained inadequate to accommodate the recent increase in religious believers. The difficulty in registering new places of worship led to serious overcrowding in existing places of worship in some areas. Some observers cited the lack of adequate meeting space in registered churches to explain the rapid rise in attendance at house churches and "underground" churches.

The law does not prohibit religious believers from holding public office; however, most influential positions in government were reserved for Party members, and Party officials stated that Party membership and religious belief are incompatible. Party membership also was required for almost all high-level positions in government and in state-owned businesses and organizations. The Party reportedly issued circulars ordering Party members not to adhere to religious beliefs. The Routine Service Regulations of the People's Liberation Army state explicitly that servicemen "may not take part in religious or superstitious activities." Party and PLA personnel have been expelled for adhering to Falun Gong beliefs. In November, an international company that employs over 100,000 women in the country reported that it had revised its Chinese sales force agreement to remove an explicit ban on Falun Gong members.

Despite official regulations encouraging officials to be atheists, in some localities as many as 25 percent of Party officials engaged in some kind of religious activity. Most of these officials practiced Buddhism or a folk religion. The National People's Congress (NPC) included several religious representatives. Two of the NPC Standing Committee's vice chairmen are Fu Tieshan, a bishop and vice-chairman of the Chinese Catholic Patriotic Association, and Pagbalha Geleg Namgyai, a Tibetan "reincarnate lama." Religious groups also were represented in the Chinese People's Political Consultative Conference, an advisory forum for "multiparty" cooperation and consultation led by the CCP, and in local and provincial governments. During the year, Director of the State Administration for Religious Affairs Ye Xiaowen publicly emphasized that the guiding "Three Represents" ideology includes serving the interests of "the more than 100 million persons with religious beliefs." In a widely reported July speech, he stated that "upholding the propaganda and education on atheism and upholding the policy on freedom of religious belief are both correct and necessary."

The authorities permitted officially sanctioned religious organizations to maintain international contacts that did not involve "foreign control"; what constitutes "control" was not defined. Regulations ban proselytizing by foreigners. For the most part, authorities allowed foreign nationals to preach to foreigners in approved, registered places of worship, bring in religious materials for personal use, and preach to citizens at churches, mosques, and temples at the invitation of registered religious organizations. Collective religious activities of foreigners also were required to take place at officially registered places of worship or approved temporary locations. Foreigners legally were barred from conducting missionary activities, but many foreign Christians

teaching English and other subjects on college campuses openly professed their faith with minimum interference from authorities.

Many Christian groups throughout the country have developed close ties with local officials, in some cases running schools to help educate children who otherwise would receive a substandard education and operating homes for the care of the aged. Likewise, Buddhist-run private schools and orphanages in the central part of the country not only educated children but also offered vocational training courses to teenagers and young adults.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate "political reliability," and all graduates must pass an examination on their political as well as theological knowledge to qualify for the clergy. The Government permitted limited numbers of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies. In most cases, funding for these training programs was provided by foreign organizations.

Both official and unofficial Christian churches had problems training adequate numbers of clergy to meet the needs of their growing congregations. No priests or other clergy in the official churches were ordained between 1955 and 1985, creating a severe shortfall in certain age groups. Due to government prohibitions, unofficial churches had particularly significant problems training clergy or sending students to study overseas, and many clergy received only limited and inadequate preparation. Members of the underground Catholic Church, particularly clergy wishing to further their studies abroad, found it difficult to obtain passports and other necessary travel documents (see Section 2.d.). Some Catholic clerics also complained that they were forced to bribe local RAB officials before being allowed to enter seminaries.

Traditional folk religions, such as the "Mazu cult" in Fujian Province, which is based on a legend, were still practiced in some locations. They were tolerated to varying degrees, often seen as loose affiliates of Taoism or as ethnic minority cultural practices. However, at the same time, folk religions have been labeled as "feudal superstition" and sometimes were repressed because their resurgence was seen as a threat to Party control. In recent years, local authorities have destroyed thousands of shrines; however, there were no reports of such destruction during the year.

Buddhists made up the largest body of organized religious believers. The traditional practice of Buddhism continued to expand among citizens in many parts of the country. Tibetan Buddhists in some areas outside of the TAR had growing freedom to practice their faith. However, some Government restrictions remained, particularly in cases in which the Government interpreted Buddhist belief as supporting separatism, such as in some Tibetan areas and parts of the Inner Mongolian Autonomous Region. Visits by official emissaries of the Dalai Lama and also by his brother, which occurred in July and September 2002, continued when Lodi Gyari and Kelsang Gyaltzen, the Dalai Lama's representatives to the United States and Europe, respectively, made a second trip to the country in June. They met with officials and visited Shanghai, Beijing, and Tibetan areas in Yunnan Province (see Tibet Addendum).

Regulations restricting Muslims' religious activity, teaching, and places of worship continued to be implemented forcefully in Xinjiang. Authorities reportedly continued to prohibit the teaching of Islam to children under the age of 18 in areas where ethnic unrest has occurred and reserved the right to censor imams' sermons, particularly during sensitive religious holidays. For example, an independent imam in Kunming, Yunnan Province, was forced by the local patriotic association to stop preaching after he began to draw large crowds. Authorities believed his sermons were too fundamentalist in tone. In Xinjiang, authorities also treated fundamentalist Muslim leaders particularly harshly. In 2000, the authorities began conducting monthly political study sessions for religious personnel; the program reportedly continued during the year. The authorities also continued in some areas to discourage overt religious attire such as veils and to discourage religious marriage ceremonies. In addition, in some areas, fasting reportedly was prohibited or made difficult during Ramadan. There were numerous official media reports that the authorities confiscated illegal religious publications in Xinjiang. The Xinjiang People's Publication House was the only publisher allowed to print Muslim literature in Xinjiang, and stores reported that those selling literature not included on Government lists of permitted items risked closure.

In some areas where ethnic unrest has occurred, particularly among Central Asian Muslims (and especially the Uighurs) in Xinjiang, officials continued to restrict the building of mosques. However, in other areas, particularly in areas traditionally populated by the non-Central Asian Hui ethnic group, there was substantial religious building construction and renovation. Mosque destruction, which sometimes occurred in Xinjiang, occasionally resulted from intra-religious conflict.

The Government permitted Muslim citizens to make the Hajj to Mecca and in some cases subsidized the journey. In 2002, approximately 2,000 persons were permitted to make the Hajj with government-organized delegations, while up to an additional 2,000 privately organized Hajjis went on their own after securing government approval. Other Muslims made the trip to Mecca via third countries. Uighur Muslims reportedly had greater difficulty getting permission to make the Hajj than other Muslim groups, such as Hui Muslims. Factors limiting Chinese Muslims' participation in the Hajj included costs and controls on passport issuance.

There were no diplomatic relations between the Government and the Holy See, although foreign Catholic officials visited during the year. While both Government and Vatican authorities stated that they would welcome an agreement to normalize relations, issues concerning the role of the Pope in selecting bishops and the status of underground Catholic clerics have frustrated efforts to reach this goal. Some bishops in the official Catholic Church were not openly recognized by the Holy See, although many have been recognized privately. Frequently, bishops were first consecrated and later sought Papal approval of their consecrations, sometimes secretly, causing tensions between the Government and the Vatican. Newly nominated bishops seeking unofficial Papal approval frequently found themselves at odds with other church leaders, who were sympathetic to the Central Government and who insisted that consecrations of new bishops be conducted by more senior bishops not recognized by the Vatican. Catholic priests in the official church also faced dilemmas when asked by parishioners whether they should follow Church doctrine or government policy restricting the number of children per family. This dilemma was particularly acute when discussing abortion.

Government relations with the unofficial Catholic Church worsened somewhat. After the July 1 demonstration in Hong Kong against legislation on Article 23 of the Basic Law, the Government was stricter toward the underground Catholic Church, in part because the Government accused Hong Kong Catholic leader Bishop Joseph Zen of having a negative influence on his mainland coreligionists. The Government's refusal to allow the official Catholic Church to recognize the authority of the Papacy in matters such as the ordination of bishops led many Catholics to refuse to join the official Catholic Church on the grounds that this refusal denies one of the fundamental tenets of their faith.

There were no new reports of Nanjing Seminary professors or Protestant preachers purged for theological perspectives different from those held by Bishop Ding Guangxun, national leader of the official Protestant church. Foreign teachers were officially invited to teach at both Catholic and Protestant seminaries during the year.

The increase in the number of Christians resulted in a corresponding increase in the demand for Bibles, which were available for purchase at most officially recognized churches. Although the country had only one government-approved publisher of Bibles and distribution had been a problem, the shortage of Bibles in previous years appeared largely to have abated. Customs officials continued to monitor for the "smuggling" of Bibles and other religious materials into the country, but there were no new cases of significant punishments for Bible importation. There were credible reports that the authorities sometimes confiscated Bibles and other religious material in raids on house churches.

Weekly services of the foreign Jewish community in Beijing have been held uninterrupted since 1995, and High Holy Day observances have been allowed for more than 15 years. The Shanghai Jewish community was allowed to hold services in an historic Shanghai synagogue, which has been restored as a museum. Local authorities indicated that the community could use the synagogue in the future for special occasions on a case-by-case basis.

The Church of Jesus Christ of Latter-Day Saints meets regularly in a number of cities, but its membership was strictly limited to the expatriate community.

Requests by expatriate Protestant churches for permission to allow local Chinese to attend their services were rejected by the Government. Foreign Protestant missionaries, including several in Guangzhou, were expelled during the year. The Government claimed that those expelled had violated Chinese law.

Authorities singled out groups they considered to be "cults" for particularly severe treatment. These "cults" included not only Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as "qigong" groups), but also religious groups that authorities accused of preaching beliefs outside the bounds of officially approved doctrine. For example, police continued their efforts to close down an underground evangelical group called the "Shouters," an offshoot of a pre-1949 indigenous Protestant group. The Government continued a general crackdown on such groups, including Eastern Lightning, the Association of Disciples, the Full Scope Church, the Spirit Sect, the New Testament Church, the Way of the Goddess of Mercy, the Lord God Sect, the Established King Church, the Unification Church, and the Family of Love. Authorities accused some in these groups of lacking proper theological training, preaching the imminent coming of the Apocalypse or holy war, or exploiting the reemergence of religion for personal gain.

Actions against such groups continued during the year. For example, police in January reportedly arrested over 100 members of the All-Scope Church in Henan Province and accused them of being a "doomsday cult." In February 2002, three members of the Blood and Water Holy Spirit Full Gospel Preaching Team were sentenced to 7 years in prison for "using a cult organization to violate the law" in Xiamen, Fujian Province. In December 2001, Gong Shengliang, founder of the South China Church, was sentenced to death on criminal charges including rape, arson, and assault. In 2002, an appeals court overturned his death sentence, and Gong was sentenced to life in prison. In the retrial, four women from his congregation claimed that, prior to the first trial, police had tortured them into signing statements accusing Gong of raping them. The four women, who were found not guilty of "cultist activity" in the retrial, were nonetheless immediately sent to reeducation-

through-labor camps. In the retrial, the court also dropped all "evil cult" charges against the South China Church.

During the year, the Government continued its harsh and comprehensive campaign against the Falun Gong. There were allegations that hundreds of individuals received criminal, administrative, and extrajudicial punishment for practicing Falun Gong, admitting that they believed in Falun Gong, or simply refusing to denounce the organization or its founder. While the campaign against Falun Gong appeared to have abated somewhat in eastern and southern China, it continued in other provinces. During the SARS epidemic, the Government launched new accusations that Falun Gong practitioners were disrupting SARS-prevention efforts. State-run media claimed that, beginning in April, Falun Gong followers "incited public panic" and otherwise "sabotaged" anti-SARS efforts in many provinces by preaching that belief in Falun Gong will prevent persons from contracting SARS. Authorities detained hundreds of Falun Gong adherents on such charges, including 69 in Jiangsu Province during May and 180 in Hebei Province during June.

Since the Government banned the Falun Gong in 1999, the mere belief in the discipline (even without any public manifestation of its tenets) has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Although the vast majority of the tens of thousands of practitioners detained since 2000 have been released, thousands reportedly remained in reeducation-through-labor camps. Those identified by the Government as "core leaders" have been singled out for particularly harsh treatment. More than a dozen Falun Gong members have been sentenced to prison for the crime of "endangering state security," but the great majority of Falun Gong members convicted by the courts since 1999 have been sentenced to prison for "organizing or using a sect to undermine the implementation of the law," a less serious offense. Most practitioners, however, were punished administratively. In addition to being sentenced to reeducation through labor, some Falun Gong members were sent to detention facilities specifically established to "rehabilitate" practitioners who refused to recant their belief voluntarily. In addition, hundreds of Falun Gong practitioners have been confined to mental hospitals (see Section 1.d).

Police often used excessive force when detaining peaceful Falun Gong protesters, including some who were elderly or who were accompanied by small children. During the year, there were further allegations of abuse of Falun Gong practitioners by the police and other security personnel. Since 1997, at least several hundred Falun Gong adherents reportedly have died while in police custody (see Section 1.a.). In December, Liu Chengjun, sentenced to 19 years in prison in March 2002 for involvement in illegal Falun Gong television broadcasts, was reportedly beaten to death by police in Jilin City Prison. In February 2002, Chengdu University Associate Professor Zhang Chuansheng died in prison after being arrested for his involvement with Falun Gong. Prison authorities claimed he died of a heart attack, but witnesses who saw his body claimed he had been severely beaten.

Falun Gong practitioners continued their efforts to overcome government attempts to restrict their right to free assembly, particularly in Beijing, but the extent of Falun Gong public activity in the country continued to decline considerably (see Section 2.b.). The Government initiated a comprehensive effort to round up practitioners not already in custody and sanctioned the use of high-pressure tactics and mandatory anti-Falun Gong study sessions to force practitioners to renounce Falun Gong. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend anti-Falun Gong classes or were sent directly to reeducation-through-labor camps, where in some cases, beatings and torture reportedly were used to force them to recant. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement.

Authorities also detained foreign Falun Gong practitioners. For example, in January, two Australian citizens were deported for engaging in Falun Gong activities in Sichuan Province. In November 2001, more than 30 foreigners and citizens resident abroad were detained in Beijing as they demonstrated in support of the Falun Gong. They were expelled from the country; some credibly reported being mistreated while in custody.

During the year, the authorities also continued a general crackdown on other groups considered to be "cults," often using the 1999 decision to ban cults under Article 300 of the Criminal Law. Regulations require all qigong groups to register with the Government. Those that did not were declared illegal. The Zhong Gong qigong group, which reportedly had a following rivaling that of Falun Gong, was banned in 2000. This created an atmosphere of uncertainty for many qigong practitioners, and there were reports that some qigong practitioners feared practicing or teaching openly. In February 2001, Zhang Xinying, vice chairman of the Chinese Society of Religious Studies, said that the rise of "cults" was due to frequent abuse of the concept of "religious freedom" by "some persons with ulterior motives." Other senior leaders made similar comments in the context of criticizing Falun Gong.

The Government taught atheism in schools. While the Government claimed that there were no national-level regulations barring children from receiving religious instruction, in some regions local authorities barred persons under 18 from attending services at mosques, temples, or churches.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

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

Although the Government maintained restrictions on the freedom to change one's workplace or residence, the national household registration and identification card system continued to erode, and the ability of most citizens to move within the country to work and live continued to expand. However, the Government retained the ability to restrict freedom of movement through other mechanisms. Authorities heightened restrictions periodically during the year, particularly before politically sensitive anniversaries and to forestall demonstrations.

The Government's "hukou" system of national household registration underwent some liberalization during the year, as the country responded to economic demands for a more mobile labor force. Nonetheless, many Chinese could not officially change their residence or workplace within the country. Government and work unit permission were often required before moving from city to city. It was particularly difficult for peasants from rural areas to obtain household registration in economically more developed urban areas. This produced a "floating population" of between 100 and 150 million economic migrants who lacked official residence status in cities. Without official residence status, it was difficult or impossible to gain full access to social services, including education. Further, migrant workers were generally limited to types of work considered least desirable by local residents, and they had little recourse when subject to abuse by employers and officials. In some major cities, access to education for children of migrant workers continued to improve during the year, and some cities began to offer migrants some other social services free of charge. In September, Jiangsu Province became the first province to abolish the distinction between urban and rural residents in its household registration documents. In July, the city of Chengdu further liberalized its registration system, allowing up to half of the city's 1.5 million migrants to qualify for temporary residence permits. In June, the administrative detention system of custody and repatriation applied to migrants was abolished (see Section 1.d.). Authorities announced that custody and repatriation centers would be replaced by a network of aid shelters offering services to migrants, but it was unclear at year's end how these reforms would be implemented.

Prior to sensitive anniversaries, authorities in urban areas rounded up and detained some "undesirables," including the homeless, the unemployed, migrant workers, those without proper residence or work permits, petty criminals, prostitutes, and the mentally ill or disabled. Dissidents reported that the authorities restricted their freedom of movement during politically sensitive periods and while foreign dignitaries visited the country.

Under the "staying at prison employment" system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities have denied certain persons permission to return to their homes after serving their sentences. Those persons sentenced to a total of more than 5 years in reeducation-through-labor camps on separate occasions also could lose their legal right to return to their home area. For those assigned to camps far from their residences, this practice constituted a form of internal exile. The number of prisoners subject to this restriction was unknown. Authorities reportedly forced other recently released prisoners to accept jobs in state enterprises where they could be closely monitored. Other released or paroled prisoners returned home but were not permitted freedom of movement. Former senior leaders Zhao Ziyang and Bao Tong remained under house arrest in Beijing, and security around them routinely was tightened during sensitive periods.

The Government permitted legal emigration and foreign travel for most citizens. Passports were increasingly easy to obtain in most places, although those whom the Government deemed to be threats, including religious leaders, political dissidents, and some ethnic minority members continued to have difficulty obtaining passports (see Tibet Addendum). During the year, the Government expanded from 25 to 100 the number of cities in which residents can apply for a passport. Many local governments abolished regulations requiring residents to obtain written permission from police and employers before applying for a passport. The Government continued to use political attitudes as criteria for selecting persons for government-sponsored study abroad; however, the Government did not control privately sponsored students, who constituted the majority of citizens studying abroad. Business travelers who wished to go abroad could obtain passports relatively easily.

There were reports that some academics faced travel restrictions around the year's sensitive anniversaries, particularly the June 4 anniversary of the 1989 Tiananmen Square massacre, and there were instances in which the authorities refused to issue passports or visas on apparent political grounds. Members of the underground Catholic Church, particularly clergy wishing to further their studies abroad, found it difficult to obtain passports and other necessary travel documents. Some Falun Gong members also reportedly had difficulty in obtaining passports during the year. In May 2001, the Government prevented Dr. Gao Yaojie, who had exposed the transmission of HIV through blood collection in villages in Henan Province, from traveling abroad to receive an award. Similarly, visas to enter the country also were denied. For example, some foreign academics who had been critical of the country continued to be denied visas.

Although a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the country has no law or regulations that authorize the authorities to grant refugee status. The Government cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country. Since the late 1980s, the Government has adopted a de facto policy of tolerance toward the small number of persons, fewer than 100 annually, from other nations who registered with the Beijing office of the UNHCR as asylum seekers. The Government permitted these persons

to remain in the country while the UNHCR made determinations as to their status and, if the UNHCR determined that they were bona fide refugees, while they awaited resettlement in third countries. However, the Government continued to deny the UNHCR permission to operate along its northeastern border with North Korea, arguing that North Koreans who crossed the border were illegal economic migrants, not refugees.

During the year, several thousand North Koreans were reportedly seized, detained, and forcibly returned to their homeland, where many faced persecution. In recent years, crackdowns on prostitution and forced marriages have resulted in increased deportations of North Korean women. During the year, the Government did permit approximately 300 North Koreans to travel to Seoul after they had entered diplomatic compounds or international schools in China, and hundreds more arrived in South Korea via third countries such as Mongolia, Vietnam, Thailand, and Cambodia after transiting through China. There were numerous credible reports of harassment, detention, and abuse of North Koreans in the country, including the July 27 detention of four persons at the Beijing train station and the August 7 detention of eight persons in Shanghai who allegedly attempted to enter the Japanese school. The Government also arrested and detained foreign journalists, missionaries and activists, as well as some Chinese citizens, for providing food, shelter, transportation, and other assistance to North Koreans. For example, South Korean photojournalist Seok Jae Hyun was imprisoned in January while photographing North Korean refugees trying to board boats headed for South Korea and Japan (see Section 2.a.). In August, two South Korean journalists were detained and later expelled for allegedly assisting North Koreans attempting to enter an international school in order to transit to South Korea. In December, an employee of a Japanese NGO was detained for trying to assist North Koreans in China.

While UNHCR reported that more than 2,000 Tibetans each year continued to cross into Nepal, the Government continued to try to prevent many Tibetans from leaving. In a case that raised serious international concerns, on May 31, the Government pressured Nepalese authorities to repatriate forcibly 18 Tibetans, including several minors. The 18 were denied access to the UNHCR, forced onto a bus and taken back across the border to China, where they were held, first at a border post and later at a prison in Shigatse. According to NGO reports, the detainees were tortured, and most also were pressured for bribes. At year's end, NGOs could not confirm that all 18 individuals had been released (see Tibet Addendum).

In October, the Government executed Uighur Shaheer Ali after he and another Uighur were forcibly returned to China in 2002 from Nepal, where they had been granted refugee status by UNHCR (see Section 5).

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

Citizens lack the right to change their government peacefully and cannot freely choose or change the laws and officials that govern them. Rural citizens voted directly for their local village committees, which were not considered to be government bodies, and, in some areas, for Party-reviewed candidates for positions in township governments and county-level people's congresses. However, people's congress delegates at the provincial level were selected by county-level people's congresses, and, in turn, provincial-level people's congresses selected delegates to the NPC. Although the Party vets candidates for all elections above the village level, many township, county, and provincial elections featured competition, with more candidates than available seats in some races. Many elections, however, remained tightly controlled.

According to the Constitution, the NPC is the highest organ of state power. Formally, it elects the President and Vice President, selects the Premier and Vice Premiers, and elects the Chairman of the State Central Military Commission. In practice, the NPC Standing Committee oversees these elections and determines the agenda and procedure for the NPC under the direct authority of the CCP's Politburo Standing Committee. The NPC does not have the power to set policy or remove Government or Party leaders. In general, the election and agenda of people's congresses at all levels remained under the firm control of the CCP, the paramount source of political authority. By year's end, 23 provincial Party leaders had been named to head concurrently provincial people's congresses in order to strengthen Party control over the legislatures.

The CCP retained a tight rein on political decision-making and forbade the creation of new political parties. The Government continued efforts to suppress the CDP, an opposition party that had attracted hundreds of members nationwide within a few months of its founding in 1998. Public security forces had previously arrested nearly all of the CDP's leaders: Xu Wenli, Wang Youcai, and Qin Yongmin were sentenced in 1998 to prison terms of 13, 12, and 11 years respectively. Xu Wenli was released on medical parole to the United States in December 2002, but Wang and Qin remained in prison. At the time of the 16th Party Congress in November 2002, authorities targeted many remaining activists for signing an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre (see Section 1.d.).

Under the Organic Law of the Village Committees, all of the country's approximately 1 million villages were expected to hold competitive, direct elections for subgovernmental village committees. A 1998 revision to the law called for improvements in the nominating process and improved transparency in village committee administration. The revised law also explicitly transferred the power to nominate candidates to the villagers themselves, as opposed to village groups or Party branches. According to the Ministry of Civil Affairs, the majority of provinces have carried out at least four or five rounds of village elections. Foreign observers who

monitored local village committee elections judged the elections they observed, on the whole, to have been fair. However, the Government estimated that one-third of all elections had serious procedural flaws. Corruption and interference by township level officials continued to be a problem in some cases.

Since 1998, there has been experimentation at the township level designed to expand the role of township residents in the selection of their leaders. The country's Constitution forbids direct election of officials above the village level, and a 2001 NPC directive emphasized that direct election of township-level officials was forbidden. In August, Wei Shengduo, a Party official in Chongqing municipality reportedly was detained for 2 weeks for trying to organize a direct election for the head of township government. Nonetheless, experimentation with indirect township-level elections continued during the year, and results of such elections were allowed to stand. Most such "elections" involved open nomination of candidates by township residents and pro forma confirmation by the township people's congress, selected either directly by residents or indirectly by "residents' representatives."

Candidates favored by local authorities have been defeated in some elections, although, in general, the CCP dominated the local electoral process. Approximately 60 percent of the members elected to the village committees were Party members. National-level election procedures mandate secret ballots and require villagers to be given ballots with space for write-in candidates, and these requirements were implemented in most cases. In elections for district level people's congresses, independent candidates were elected in Guangdong Province in May and in Beijing in December.

During the year, the Government also experimented with other forms of public oversight of government, including telephone hotline and complaint centers, administrative hearings, increased opportunity for citizen observation of government proceedings, and other forms of citizen input in the local legislative process, such as hearings to discuss draft legislation, which have been introduced on a limited basis in some areas.

Corruption remained an endemic problem. The courts and Party agencies took disciplinary action against some public and Party officials during the year. According to the Supreme People's Procuratorate, prosecutors at all levels investigated 207,103 cases of embezzlement, bribery, and other functionary crimes during the 1997-2002 period. During that period, 83,308 public officials were convicted for graft or bribery, a 65 percent increase over the previous 5-year period, according to the Supreme People's Court. In April, the Minister of Supervision reported that 860,000 corruption cases were filed against Party members from 1997 to 2002, resulting in over 137,000 expulsions and disciplinary action in over 98 percent of cases. The Party's Central Discipline and Inspection Commission also played an important role in investigating corruption and official malfeasance but published no statistics and, in some cases, reportedly acted as a substitute for sanctions by the courts and other legal agencies.

During the year, citizens seeking to petition the Central Government for redress of grievances faced harassment, detention, and incarceration. In several cases, Shanghai police officers and officials from the Shanghai Office of the Bureau for Handling Letters and Visits traveled to Beijing to prevent Shanghai residents from raising grievances with Central Government officials. On November 18, such a team of Shanghai officials detained Jiang Meili, the wife of convicted Shanghai housing advocate Zheng Enchong, and her sister and forced them to return to Shanghai. Jiang was in Beijing to consult her husband's attorney. Other citizens expressing grievances involving housing and salary have faced similar harassment. For example, Hong Kong resident Shen Ting was harassed by non-Beijing police and detained in October for traveling to Beijing to protest housing issues in Shanghai (see Section 1.f.). On December 2, Shanghai residents Gong Haoming and Chen Enjuan were sentenced to 30 and 21 months' reeducation through labor for "disturbing public order" after attempting to petition Beijing authorities. Other activists also were reportedly sentenced to reeducation through labor on the same charges.

The Government placed no special restrictions on the participation of women or minority groups in the political process. However, women still held few positions of significant influence at the highest rungs of the Party or government structure. There was one woman on the 24-member Politburo; she concurrently held the only ministerial post (out of 28) occupied by a woman. There was also one woman among the five State Councilors. In the country's 28 ministries, only 14 women served at the level of vice minister or higher. Women freely exercised their right to vote in village committee elections, but only a small fraction of elected members were women. The Government and Party organizations included approximately 12 million female officials out of 67 million Party members. Women constituted 20.2 percent of the NPC and 13.2 percent of the NPC Standing Committee. The 16th Party Congress in November 2002 elected 27 women to serve as members or alternates on the 198-person Central Committee, a slight increase over the total of the previous committee.

Minorities constituted 14 percent of the NPC, although they made up approximately 9 percent of the population. All of the country's 56 nationalities were represented in the NPC membership. The 16th Party Congress elected 35 members of ethnic minorities to serve as members or alternates on the Central Committee; however, minorities held few senior Party or government positions of significant influence.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged

## Violations of Human Rights

The Government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions. It was difficult to establish an NGO, and the Government tended to be suspicious of independent organizations; most existing NGOs were quasi-governmental in nature and were closely controlled by government agencies (see Section 2.b.). However, an informal network of dissidents in cities around the country has become a credible source of information about government actions taken against activists. The information was disseminated outside of the country through organizations such as the Hong Kong-based Information Center for Human Rights and Democratic Movement in China and the New York-based Human Rights in China.

The press regularly printed articles about officials who exceeded their authority and infringed on citizens' rights. However, the Government remained reluctant to accept criticism of its human rights record by other nations or international organizations and criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. Individuals, including Zheng Enchong of Shanghai and Liu Fenggang of Beijing, were charged or convicted of "disclosing state secrets" during the year after passing information to human rights NGOs based abroad. The Government maintained that there are legitimate, differing approaches to human rights based on each country's particular history, culture, social situation, and level of economic development. The Government established the China Society for Human Rights, a "nongovernmental" organization whose mandate was not to monitor human rights conditions, but to defend the Government's views and human rights record.

The Government had active human rights dialogues with many countries, including Australia, Brazil, Canada, Chile, Germany, Hungary, Japan, Norway, Switzerland, the United Kingdom, and the United States, as well as with the European Union.

The Government continued its unofficial dialogue on human rights and prisoner issues with a San Francisco-based human rights group. During the year, officials accepted lists from this group of several hundred detainees and provided detailed information on more than 100 cases. The group's executive director traveled to Tibet, where he was granted access to a political prisoner under house arrest, and visited Yancheng Prison in Hebei Province -- China's first prison operated directly by the central government -- and Xiamen Prison in Fujian Province.

In June, the Government submitted its first report on implementation of the International Covenant on Economic, Social and Cultural Rights, which the Government has ratified. In September, the U.N. Special Rapporteur on the Right to Education visited, the first U.N. special rapporteur to visit the country since 1994. In 2002, the Government agreed to invite the U.N. Special Rapporteur on Torture, the U.N. Special Rapporteur on Religious Intolerance, the U.N. Working Group on Arbitrary Detention, and the leaders of the U.S. Commission on International Religious Freedom to visit, but none of those visits took place. In at least two cases, the Government attached conditions on visits which the invited rapporteur or organization considered unacceptable.

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

There were laws designed to protect women, children, persons with disabilities, and minorities. However, in practice, some societal discrimination based on ethnicity, gender, and disability persisted.

Discrimination against persons with HIV/AIDS was widespread. According to official statistics, over 1 million citizens were infected with HIV; U.N. and other estimates suggested the true number could be twice as large. Demonstrations by persons with HIV/AIDS protesting discrimination in treatment or seeking greater access to health care sometimes attracted hundreds of participants, particularly in central provinces where thousands of villagers were infected at government-run blood collection centers. In some cases, authorities arrested and used force against HIV/AIDS protesters (see Section 2.c.). Individuals who disseminated information about HIV/AIDS infection from blood collection, including Henan provincial health official Ma Shiwen and Dr. Gao Yaojie, sometimes faced harassment, detention, and lawsuits (see Sections 1.d. and 1.e.). The Government and many provinces did, however, amend marriage laws during the year to permit marriages by those with HIV/AIDS. The first known marriage between two HIV-positive persons since the law was amended took place in July.

## Women

Violence against women was a significant problem. There was no national law criminalizing domestic violence, but Articles 43 and 45 of the Marriage Law provide for mediation and administrative penalties in cases of domestic violence. Over 30 provinces, cities or local jurisdictions have passed legislation specifically to address domestic violence. While no reliable statistics existed on the extent of physical violence against women, anecdotal evidence suggested that reporting of domestic abuse was on the rise, particularly in urban

areas, because greater attention has been focused on the problem. A July 2000 survey by the All-China Women's Federation found that violence occurred in 30 percent of families, and 80 percent of cases involved husbands abusing their wives. Actual figures were believed to be higher because spousal abuse still went largely unreported. The survey found that domestic violence occurred at all socioeconomic levels. According to experts, domestic abuse was more common in rural areas than in urban centers. In response to increased awareness of the problem of domestic violence, there were a growing number of shelters for victims. Rape is illegal, and some persons convicted of rape were executed. The law does not expressly recognize or exclude spousal rape.

The Central Government prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations (see Section 1.f.) has resulted in instances of local birth planning officials reportedly using physical coercion to meet government goals. In addition, women faced a disproportionate burden due to the government's enforcement of its birth limitation laws and practices, which require the use of birth control methods (particularly IUDs and female sterilization, which according to government statistics accounted for over 80 percent of birth control methods employed) and the abortion of certain pregnancies.

According to expert estimates, there were 1.7 to 5 million commercial sex workers in the country. The increased commercialization of sex and related trafficking in women trapped thousands of women in a cycle of crime and exploitation and left them vulnerable to disease and abuse. According to the official Xinhua News Agency, one in five massage parlors in the country was involved in prostitution, with the percentage higher in cities. Unsafe working conditions were rampant among the saunas, massage parlors, clubs, and hostess bars that have sprung up in large cities. Research indicated that up to 80 percent of prostitutes in some areas had hepatitis. In light of this and, in particular, of the growing threat of AIDS among sex workers, the U.N. Convention on the Elimination of Discrimination Against Women Committee in 1998 recommended that due attention be paid to health services for female prostitutes.

Although the Central Government and various provincial and local governments have attempted to crack down on the sex trade, there have been numerous credible reports in the media of complicity in prostitution by local officials. Actions to crack down on this lucrative business, which involved organized crime groups and businesspersons as well as the police and the military, had limited results. However, there have been instances in which persons involved in organizing and procuring prostitutes have been prosecuted. In December, state media reported that a Guangdong Provincial Court sentenced a hotel official and "pimp" to life in prison for procuring approximately 500 prostitutes for a September "orgy" party for hundreds of Japanese tourists. Twelve other persons, including hotel workers and travel agency employees, were sentenced to jail terms of between 2 and 15 years, but no local government officials or civil servants were convicted.

Trafficking in women and children and the kidnapping and sale of women and children for purposes of prostitution or marriage were significant problems (see Section 6.f.).

No statute outlaws sexual harassment in the workplace, and the law does not specifically define sexual harassment. In March, Beijing courts accepted their first sexual harassment case filed by a woman and, in September, awarded the first sexual harassment judgment in favor of a man in another case. There was no reliable data about the extent of sexual harassment, and the law did not specifically define sexual harassment. Experts suggested that many victims of sexual harassment did not report it out of fear of losing their jobs, but awareness was growing. State media reported that a television series on sexual harassment aired on many channels.

The Government has made gender equality a policy objective since 1949. The Constitution states that "women enjoy equal rights with men in all spheres of life." The 1992 Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. Nonetheless, many activists and observers increasingly were concerned that the progress that has been made by women over the past 50 years was being eroded and that women's status in society had regressed during the 1990s. They asserted that the Government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability.

The Law on the Protection of Women's Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Efforts have been made by social organizations as well as by the Government to educate women about their legal rights, and there was anecdotal evidence that women increasingly were using laws to protect their rights.

Nevertheless, women frequently encountered serious obstacles to the enforcement of laws. According to legal experts, it was very hard to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages. As a result, very few cases were brought to court. Some observers also noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual

harassment. The structure of the social system also prevented women from having a full range of options. Women who sought a divorce faced the prospect of losing their housing since government work units allot housing to men when couples marry.

The All China Women's Federation reported that 47 percent of laid-off workers were women, a percentage significantly higher than their representation in the labor force. Many employers preferred to hire men to avoid the expense of maternity leave and childcare, and some even lowered the effective retirement age for female workers to 40 years of age (the official retirement age for men was 60 years and for women 55 years). Lower retirement ages also had the effect of reducing pensions, which generally were based on years worked.

The law provides for equal pay for equal work. However, a 1999 Government survey found that urban women were paid only 70.1 percent of what men received for the same work, while women in rural areas received only 59.6 percent of male peasants' incomes. Average incomes of female executives and senior professionals were only 57.9 percent and 68.3 percent of their male colleagues' salaries. Women have borne the brunt of the economic reform of state-owned enterprises. Most women employed in industry worked in lower skilled and lower paid jobs and in sectors, such as textiles, which were particularly vulnerable to restructuring and layoffs.

A 1998 Asian Development Bank report estimated that 25 percent of all women were semi-literate or illiterate, compared with 10 percent of men. Official government statistics claimed that the illiteracy rate among women ages 15-40 was only 4.2 percent.

A high female suicide rate continued to be a serious problem. According to the World Bank, Harvard University, and the World Health Organization, some 56 percent of the world's female suicides occur in China (approximately 500 per day). The World Bank estimated the suicide rate in the country to be three times the global average; among women, it was estimated to be nearly five times the global average. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, the country's birth limitation policies, and other societal factors contributed to the especially high female suicide rate.

While the gap in the education levels of men and women was narrowing, men continued to constitute a disproportionate number of the relatively small percentage of the population that received a university-level education. According to figures released by the All-China Women's Federation, in 2002 women made up 44.0 percent of university students and 46.7 percent of all high school students. However, women with advanced degrees reported an increase in discrimination in the hiring process as the job distribution system opened up and became more competitive and market driven. According to Government statistics, 98.5 percent of girls nationwide were enrolled in elementary school, but it was widely believed that the proportion of girls attending school in rural areas was far smaller than in cities.

#### Children

The Constitution prohibits maltreatment of children and provides for compulsory education. The country has outlawed child labor and trafficking in children, but serious problems in those areas persisted.

The Constitution provides for 9 years of compulsory education for children, but in economically disadvantaged rural areas, many children did not attend school for the required period and some never attend. Public schools were not allowed to charge tuition, but after the Central Government largely stopped subsidizing primary education in the early 1990s, many public schools began to charge mandatory fees to meet revenue shortfalls. Such fees made it difficult for poorer families to send their children to school or to send them on a regular basis. Some charitable schools have opened in recent years in rural areas, but not enough to meet demand. Children of migrant workers in urban areas also often had difficulty attending school. For these families, excessive school fees were a significant problem. The Government campaign for universal primary school enrollment by 2000 (which was not met) helped to increase enrollment in some areas. It also reportedly led some school officials to inflate the number of children actually enrolled.

In September, the U.N. Special Rapporteur on the Right to Education visited the country. Following the visit, the Special Rapporteur reported that the Government failed to provide education to many children of migrant workers and prohibited children from receiving religious education. The Special Rapporteur expressed serious concern about the recent privatization of the costs of public education, reporting that the Government compels parents to pay nearly half the costs of public education, making education inaccessible to many children. The Special Rapporteur also recommended the immediate prohibition of the practice of children performing manual labor at their schools to raise funds.

An extensive health care delivery system has led to improved child health and a continued decline in infant mortality rates. According to the 2000 Census, the infant mortality rate was 28.4 per 1,000. According to UNICEF statistics, the mortality rate for children under 5 years of age was 39 per 1,000 live births. The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the NPFPC, only a handful of doctors have been charged with infanticide under this law. The law

prohibits discrimination against disabled minors and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

Despite government efforts to prevent kidnapping and the buying and selling of children, these problems persisted in some rural areas (see Section 6.f.). There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children; in particular, boys were trafficked to couples unable to have a son. However, in March, 28 baby girls were found packed in suitcases on a bus in Guangxi Province, apparently being shipped for sale elsewhere within the country (see Section 6.f.). Children also were trafficked for labor purposes. Girls and women were trafficked for prostitution and for sale as brides (see Section 6.f.).

Children reportedly were detained administratively, for minor crimes they committed or because they were homeless. After the abolition of the system of custody and repatriation (see Section 1.c.), the Government acknowledged that a growing number of homeless "street children" lived in cities and survived by begging. According to a credible report, children at times had accounted for as many as 20 percent of those detained in the custody and repatriation centers. Such children sometimes were detained without their parents, routinely were held with adults, and sometimes were required to work (see Sections 1.d. and 6.c.). In June, 3-year-old Li Shiyi starved to death at home in Chengdu, Sichuan, after police detained her mother and reportedly ignored the mother's pleas to check on the girl. The incident prompted a hunger strike by 200 intellectuals across the country.

Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the birth limitation policy. Many families, particularly in rural areas, used ultrasound to identify female fetuses and terminate pregnancies. An official study in Hainan found that 68 percent of abortions were of female fetuses. Official figures from November 2000 put the overall male-female birth ratio at 116.9 to 100 (as compared to the statistical norm of 106 to 100). For second births, the ratio was 151.9 to 100. Female babies also suffered from a higher mortality rate than male babies, contrary to the worldwide trend. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys. Neglect of baby girls was one factor in their lower survival rate. One study found the differential mortality rates were highest in areas where women had a lower social status and economic and medical conditions were poor.

The Law on the Protection of Juveniles forbids the mistreatment or abandonment of children. According to the latest available figures, compiled in 1994, the number of children abandoned annually was approximately 1.7 million, and the number may have grown over the subsequent decade despite the fact that, under the law, child abandonment is punishable by a fine and a 5-year prison term. The vast majority of children in orphanages were female, although some were males who were either disabled or in poor health. The treatment of children at these institutions has improved, especially with the increased attention created by foreign adoptions, but serious problems remained and mortality rates in some institutions were high. Medical professionals frequently advised parents of children with disabilities to put the children into orphanages. In recent years, some private orphanages (not funded by the Government), in which conditions may be generally better for children, have started to operate. In areas where such orphanages existed, some state-run orphanages exhibited a willingness to learn from them and to adopt some of their more modern practices, including the use of foster care.

The Government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those who were admitted with serious medical problems. During the year, some orphanages were renovated, new orphanages were constructed, and children in some areas received improved care. A 1997 revision of the adoption law made it easier for couples to adopt.

#### Persons With Disabilities

The law protects the rights of the country's persons with disabilities; however, reality for persons with disabilities lagged far behind legal dictates, and many did not receive or have access to special assistance or to programs designed to assist them. According to the official press, all local Governments have drafted specific measures to implement the law.

As attention began to focus on the upcoming Special Olympics and Paralympics to be held in the country in 2007-08, the press increasingly publicized the plight of persons with disabilities and the Government's efforts to assist them. State media reported that the Government spent over \$12.5 million (RMB 103.75 million) on infrastructure improvements for persons with disabilities during the year. The Government, at times in conjunction with NGOs such as the Lions Club International or the Special Olympics, sponsored a wide range of preventive and rehabilitative programs. For example, several thousand blind persons have been trained in therapeutic massage. The goal of many of these programs was to allow persons with disabilities to be integrated into the rest of society. However, misdiagnosis, inadequate medical care, pariah status, and abandonment remained common problems.

According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, often far from the parents, and in which care was often seriously inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty in getting adequate medical care, day care, and education. Government statistics showed that almost one-quarter of the approximately 60 million persons with disabilities lived in extreme poverty. Unemployment among disabled adults remained a serious problem. The Government's official strategy was to integrate persons with disabilities into the mainstream work force, but efforts to do so were limited and confronted a cultural legacy of discrimination and neglect. Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; compliance with the law was lax. Students with disabilities were discriminated against in access to education. The Higher Education Law permits universities legally to exclude disabled candidates for higher education.

The Maternal and Child Health Care Law forbids the marriage of persons with certain specified contagious diseases or certain acute mental illnesses such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The Population and Family Planning Law of 2002 requires local governments to employ such practices to raise the percentage of healthy births.

Until the system of custody and repatriation was abolished in June, persons in urban areas with mental illness or disability who were found on city streets could be detained administratively. While the Government reported that it was establishing a system of humanitarian aid shelters to replace the custody and repatriation system, it was not clear if these shelters would provide effective services to persons with disabilities or other populations (see Section 1.d.).

#### National/Racial/Ethnic Minorities

According to the 2000 census, the total population of the country's 55 ethnic minorities was 106.4 million, or 8.4 percent of the total population. Most minority groups resided in areas they traditionally have inhabited. The Government's avowed policy on minorities calls for preferential treatment in marriage regulations, birth planning, university admission, and employment. Programs have been established to provide low-interest loans, subsidies, and special development funds for minority areas. Nonetheless, in practice, minorities faced discrimination by the majority Han culture. Most of the minorities in border regions were less educated than the national average, and job discrimination in favor of Han migrants remained a serious problem. Racial discrimination was the source of deep resentment on the part of minorities in some areas, such as Xinjiang and Tibetan areas. For example, ethnic Uighurs in Xinjiang did not have equal access to newly created construction jobs associated with development projects; Han workers were brought in from Sichuan and elsewhere to work, particularly on technical projects such as oil and gas pipelines. The Government did not openly recognize racism against minorities or tension among different ethnic groups as problems.

Government development policies have long been in place to improve minority living standards. However, while overall standards of living for those in minority areas have improved as a result of these policies, real incomes in minority areas, particularly for minorities, remained well below those in other parts of the country. The majority Han Chinese have benefited disproportionately from government programs and economic growth, even in minority areas. Many development programs have disrupted traditional living patterns of minority groups, and have included, in some cases, the forced evacuation of persons (see Section 2.d.).

Since 1949, Government policy has resulted in a significant migration of Han Chinese to Xinjiang. According to a Government White Paper released in May, approximately 8.25 million of Xinjiang's 19.25 million official residents were Han Chinese, up from 300,000 Han in 1949. Approximately 8 million Xinjiang residents are Uighurs. Significant numbers of Kazakhs, Hui, Tajiks, and other minorities also live in Xinjiang. Official statistics underestimated the Han population of Xinjiang because the Government did not count the thousands of Han Chinese who were long-term "temporary workers" as part of the official population. The migration of ethnic Han into Xinjiang in recent decades has caused the Han-Uighur ratio in the capital of Urumqi to shift from 20:80 to 80:20 and was a source of Uighur resentment. Similarly, many non-Tibetan residents of the TAR have lived there for years as "temporary" residents (see Tibet Addendum).

In many areas with a significant population of minorities, there were two-track school systems which used either standard Chinese or the local minority language. Students could choose to attend schools in either system. However, graduates of minority language schools typically needed 1 year or more of intensive Chinese before they could handle course work at a Chinese-language university. Despite the Government's efforts to provide schooling in minority languages, the dominant position of standard Chinese in government, commerce, and academia put graduates of minority schools who lacked standard Chinese proficiency at a disadvantage. The vast majority of Uighur children in Xinjiang attended Uighur-language schools and generally received an hour's Chinese language instruction per day. Tuition at Chinese-language schools in Xinjiang was generally more costly, and thus, most Uighur children living in rural areas were unable to afford them.

The CCP has an avowed policy of boosting minority representation in the Government and the CCP, and

minorities constituted 14 percent of the NPC, which was higher than their percentage in the population. A 1999 government white paper reported that there were 2.7 million minority officials in the Government. The May Government White Paper states that there are 348,000 minority cadres in Xinjiang, accounting for 51.8 percent of all Party members in the autonomous region. Many members of minorities occupied local leadership positions, and a few held positions of influence in the local Party apparatus or at the national level. For example, 63 percent of Xinjiang's deputies to the NPC are ethnic minorities. However, in most areas, ethnic minorities were shut out of positions of real political and economic power, which fed resentment of Han officials holding the most powerful Party positions in minority autonomous regions.

Tensions between ethnic Han citizens and Uighurs in Xinjiang continued, and the authorities continued to restrict political, civil, and religious freedoms (see Section 2.c.) in the region. A campaign that began in 1997 to stress unity and to condemn "splittism" and religious extremism showed no signs of abating. During the year, authorities continued to prohibit activities deemed separatist in nature, announced tightened security measures, and mounted campaigns to crack down on opposition.

The strike hard campaign in Xinjiang specifically targeted the "three evils" of extremism, splittism, and terrorism as the major threats to Xinjiang's social stability. Because the Government authorities in Xinjiang regularly grouped together those involved in "ethnic separatism, illegal religious activities, and violent terrorism," it was often unclear whether particular raids, detentions, or judicial punishments targeted those peacefully seeking their goals or those engaged in violence. Many observers raised concerns that the Government's war on terror was a justification for cracking down harshly on Uighurs expressing peaceful political dissent and on independent Muslim religious leaders. On December 15, the Government published an "East Turkestan Terrorist List," which labelled organizations such as the World Uighur Youth Congress and the East Turkestan Information Center as terrorist entities. These groups openly advocate for East Turkestan independence, but have not been publicly linked to violent activity.

Uighurs were executed and sentenced to long prison terms during the year on charges of separatism. According to official accounts, by May 2001, the authorities had prosecuted more than 3,000 cases and massive public sentencing rallies attended by more than 300,000 persons had been held throughout the region. In October, Uighur Shaheer Ali was executed after being convicted of terrorism in 2002 and sentenced to death in March. In 2002, Ali and another Uighur were repatriated forcibly to the country from Nepal, where they had been granted refugee status by the UNHCR.

For many Uighurs, the ongoing imprisonment of Uighur businesswoman Rebiya Kadeer symbolized the Government's mistreatment of Uighurs. In March 2000, a Xinjiang court sentenced Kadeer, a former member of the provincial-level Chinese People's Political Consultative Conference, to 8 years in prison on charges of "passing state intelligence" to foreigners; according to an official press report, the intelligence she was accused of passing included newspaper articles and a list of names of persons whose cases had been handled by the courts. Kadeer, her son, and her secretary were arrested in 1999 while on their way to meet a visiting foreign delegation. Kadeer reportedly suffered various health problems in prison. Some foreign observers believed Kadeer was singled out for her activism on behalf of Uighurs and for her husband's involvement with Uighur causes and Radio Free Asia. In December 2002, some of Kadeer's family members were briefly detained and questioned during a visit of senior foreign officials.

Other Uighurs whose work emphasized pride in cultural identity have also been harassed and detained by the Government. In late 2001, the U.N. Human Rights Committee ruled that Uighur scholar Tohti Tunyaz had been arbitrarily detained. He was sentenced in 1999 to an 11-year term for "inciting separatism" and "illegally acquiring state secrets" after he returned to Xinjiang in connection with his research studies on ethnic minorities at the University of Tokyo.

Possession of separatist publications or audiovisual materials was not permitted, and, according to reports, possession of such materials resulted in lengthy prison sentences. The author of a history of the Uighurs that was severely criticized by provincial-level and national authorities in the mid-1990s remained prohibited from publishing or from meeting with foreigners. A Uighur-language press existed in Xinjiang, but it had a very small circulation. During the year, regulations requiring Uighurs to use Mandarin Chinese characters for their names on identification documents were reportedly strengthened.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies brought tangible economic improvements to Xinjiang, Han residents have received a disproportionate share of the benefits. The majority of Uighurs were poor farmers, and 25 percent were illiterate.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution provides for freedom of association. However, in practice, workers were not free to organize

or join unions of their own choosing. The All-China Federation of Trade Unions (ACFTU), which was controlled by the Communist Party and headed by a high-level Party official, was the sole legal workers' organization. The Trade Union Law gives the ACFTU control over the establishment and operation of all subsidiary union organizations and activities throughout the country, including enterprise-level unions. The Trade Union Law also allows workers to decide whether to join official unions in their enterprises. There were no reports of repercussions for the small percentage of workers in the state-owned sector that had not joined. Independent unions are illegal.

Although the ACFTU and its constituent unions had a monopoly on trade union activity, their influence over the workplace diminished with the economic reforms of recent years. ACFTU unions were relatively powerless to protect the tens of millions of members who have lost their jobs or had their wages or benefits delayed or cut in the massive restructuring of state-owned enterprises (SOEs). The unions have, however, provided some benefits and reemployment assistance to affected workers. The ACFTU had difficulty organizing in the country's rapidly growing private and foreign-invested sectors, where union membership during the year was estimated to be less than 20 percent. With declines in the state-owned sector and organizational weakness outside the state sector, the ACFTU's membership declined from nearly 100 percent of the urban workforce during the height of the planned economy to approximately 50 percent in recent years. The ACFTU reported a membership of 130 million at the end of 2002, out of an estimated 248 million urban workers.

The existence of an enormous rural labor force, some 490 million out of a total labor force of approximately 750 million, also complicated the organization and protection of workers. Farmers did not have a union or any other similar organization. Of some 130 million rural residents working in township and village enterprises, only a very small percentage were represented by unions. A "floating" migrant labor force of over 100 to 150 million persons has proven especially difficult to organize and protect, although state-run media reported in August that the ACFTU has stepped up a campaign to bring migrant workers into the union. Some of these migrants gravitated to temporary or seasonal low-wage work in urban areas where their residence, under the country's registration system, often was illegal (see Section 2.d.). Many migrants, including substantial numbers of young women, were attracted to the growing private sector where unions were few and where their desire to earn more than they could in rural areas made them easy to exploit.

The ACFTU has shown some interest in adapting its style to the needs of labor in a market economy. Local ACFTU federations have allowed, even facilitated, a few limited experiments in more open union elections and decision-making. These included freely electing, by secret ballot, the leadership of ACFTU-affiliated unions at several foreign-owned factories in Guangdong and Fujian Provinces in 2002 and 2003. The ACFTU also actively pushed amendments to the Trade Union Law, passed in 2001, that give greater protection to union organizing efforts and legitimize union activity in the private sector, including foreign-invested enterprises, and will now allow migrant workers to become union members. Despite the ACFTU's stated goals to organize these new groups of workers, there had been very limited gains as of year's end.

During the year, the Government took specific actions against illegal union activity, including the detention and arrest of labor activists. In May, Yao Fuxin and Xiao Yunliang, leaders of a large labor protest in Liaoyang City, Liaoning Province, who were detained in March 2002, were sentenced to 7 and 4 years in prison, respectively, based largely on allegations that they had made contact with the CDP in 1998, several years before the workers protests. Many observers believed that the sentences were largely in retaliation for their role in the labor protests.

Other labor activists, detained in previous years, were reportedly still in detention at year's end. Hu Mingjun was serving an 11-year sentence and Wang Sen a 10-year sentence for supporting December 2000 worker protests in Sichuan Province. Shanghai labor dissident Wang Miaogen, detained in 1996, was still being held in a psychiatric hospital. Other labor activists reportedly still in detention included Zhang Shanguang, Li Wangyang, Li Jiaqing, Miao Jinhong, Ni Xiafei, Li Keyou, Liao Shihua, Yue Tianxiang, Guo Xinmin, He Zhaohui, Liu Jingsheng, Peng Shi, Wang Guoqi, and labor lawyer Xu Jian. However, in June, the Government reportedly released Di Tianguai after he served a 1-year sentence for trying to organize a national federation of retired workers.

The country was a member of the International Labor Organization (ILO) and had ratified core ILO conventions prohibiting child labor, including the worst forms of child labor and discrimination in remuneration for male and female workers. At year's end, the Government had not ratified other core conventions regarding the right of association, the right to collective bargaining, and the prohibition against compulsory labor.

At year's end, the Government had not replied to an ILO request for further information in connection with a 1998 complaint brought to the ILO by the International Confederation of Free Trade Unions (ICFTU) alleging the detention of trade unionists and violations of the right to organize. In 2002, the ICFTU submitted another complaint to the ILO alleging repression of independent workers' protests in Liaoyang in Liaoning Province and Daqing in Heilongjiang Province calling attention to the sentencing of two worker activists in Sichuan Province.

The ACFTU had active ties with other national trade union organizations and had a cooperative relationship

with the ILO's China office. In 2002, the ACFTU gained a deputy workers' member seat on the ILO's Governing Body, a seat it lost in 1990 during the crackdown following the Tiananmen Square massacre. The ICFTU publicly condemned China for its denial of the right of free association, in particular for arresting labor activists. The ACFTU cooperated with the U.N. Development Program on a program, part of which was designed to assist unions to adapt to a new labor relations model.

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

The Labor Law permits collective bargaining for workers in all types of enterprises; however, in practice, genuine collective bargaining still did not occur. Under the law, collective contracts are to be developed through collaboration between the labor union (or worker representatives in the absence of a union) and management, and should specify such matters as working conditions, wage scales, and hours of work. The law also permits workers and employers in all types of enterprises to sign individual contracts, which are to be drawn up in accordance with the collective contract.

The country's shift toward a market economy and changing labor-management relations created pressures for collective bargaining that would include more genuine negotiations and take workers' interests into greater account. The Trade Union Law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. However, given the non-democratic, Party-dominated nature of unions, collective bargaining fell far short of international standards. Workers had no means to formally approve or reject the outcome of collective contract negotiations and, without the right to strike, only a limited capacity to influence the negotiation process.

In the private sector, where official unions were few and alternative union organizations were unavailable, workers faced substantial obstacles to bargaining collectively with management. Workplace-based worker committees, expected to guide union activities and serve as the vehicle for worker input into enterprise policies, were common. However, in SOEs, many were little more than rubber stamps for deals predetermined by enterprise management, the union, and the CCP representative.

The Trade Union Law provides specific legal remedies against anti-union discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. These provisions were aimed primarily at the private sector, where resistance to unions was common. The degree to which these provisions were enforced was unknown. Anti-union activity was virtually unknown in the state-owned sector.

Neither the Constitution nor the law provides for the right to strike. The Trade Union Law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers have interpreted this provision to offer at least a theoretical legal basis for the right to strike. However, government treatment of worker protests as illegal demonstrations established that there was still no officially accepted right to strike. In addition, no other types of planned worker action were allowed.

During the year, the profound economic and social changes affecting workers continued to produce labor-related disputes and worker actions. These included spontaneous and on-the-job protests, most of them directed against SOEs, usually over actual and feared job losses, wage or benefit arrears, or allegations of owner/management corruption in enterprise restructuring. The Government took swift action to halt protests. Police detained protest leaders and dispersed demonstrations, usually with minimum force. They sometimes subsequently offered payments that met at least a portion of protestors' demands. The most noteworthy labor protests in recent years occurred in the spring of 2002 in the northeastern region of the country, particularly in Liaoyang, Liaoning Province. In the Liaoyang protests, thousands of organized workers and sympathizers demonstrated for a number of days, protesting alleged corruption in the closure of a major local SOE, the loss of jobs, and wage and benefit irregularities. As a consequence of the protests, four worker leaders were arrested. Of these, Yao Fuxin and Xiao Yunliang were convicted on subversion charges and sentenced in May (see Section 6.a.). After the protests, the former manager of the SOE was sentenced to 13 years on smuggling charges. The local Government fired Liaoyang's police chief and demoted a top Party official in the city. Work stoppages at private companies were far fewer than in SOEs but did occasionally occur.

The Labor Law provides for mediation, arbitration, and court resolution of labor disputes. Under these procedures, cases are to be dealt with first in the workplace, through a mediation committee, then, if unresolved, through a local arbitration committee under government sponsorship. If no solution is reached at this level, the dispute may be submitted to the courts. According to Ministry of Labor and Social Security statistics for 2002, 51,000 labor disputes were settled through mediation, and 184,000 disputes involving 610,000 workers were submitted to arbitration, increases of about 19 percent and 31 percent, respectively, over 2001 figures. Of these cases, 11,000 were collective labor disputes, and a vast majority of cases, 179,000 or 91 percent, were resolved.

Observers differed over the effectiveness of these dispute resolution procedures. Workers reportedly had little

trust in the fairness of workplace mediation. They viewed unions, which played a major mediation role, as inclined to favor management. Workers favored arbitration over workplace mediation, although they often looked with suspicion on the local government role in the process.

Laws governing working conditions in Special Economic Zones (SEZs) were not significantly different from those in effect in the rest of the country. Law enforcement of these laws by provincial and local officials was a serious problem in the SEZs, as in other parts of the country. Wages in the SEZs and in the southeastern part of the country generally were higher for some categories of workers than in other parts of the country because high levels of investment have created a great demand for available labor. As in other areas of the country, officials acknowledged that some investors in the SEZs were able to negotiate "sweetheart" deals with local partners that bypassed labor regulations requiring the provision of benefits and overtime compensation. Some foreign businesses in the SEZs had ACFTU-affiliated unions, and management reported positive relations with union representatives, in part because the ACFTU discouraged strikes and work stoppages.

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

The law prohibits forced and bonded labor, and the Government denied that forced or bonded labor was a problem; however, forced labor was a serious problem in penal institutions. Citizens were consigned to penal labor institutions, without judicial process (see Section 1), that by law and public policy utilized labor as a means of reform and reeducation. Detainees in custody and repatriation centers, before that system was abolished in June, as well as reeducation-through-labor detainees and prisoners and pretrial detainees in the regular prison system, were required to work, often with little or no remuneration. Diplomatic observers generally were unable to gain access to reform institutions to evaluate allegations about the treatment of prisoners. In some cases, prisoners worked in facilities directly connected with penal institutions; in other cases, they were contracted to nonprison enterprises. Facilities and their management profited from inmate labor.

In 1992, the U.S. and Chinese Governments signed a memorandum of understanding (MOU), followed by an implementing statement of cooperation (SOC) in 1994. These agreements expressed the intention of the governments to cooperate to assure that Chinese prison-made products were not exported to the United States. However, Chinese cooperation under the MOU and SOC has been poor. Regular working-level meetings were held in 2002, but a scheduled prison visit and further cooperation were suspended in 2003 due to SARS; no prison visits took place during the year. Although monthly meetings resumed in December 2003, the backlog of cases remained substantial at year's end. The Government continued to exclude explicitly reform- and reeducation-through-labor institutions from the agreements.

The Government prohibits forced and bonded labor by children, but some child trafficking victims were reportedly sold into forced labor (see Section 6.f.).

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

The law prohibits the employment of children under the age of 16, but the Government had not adopted a comprehensive policy to combat child labor. The Labor Law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children's subsistence. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including labor in mines.

The Government continued to maintain that the country did not have a widespread child labor problem and that the majority of children who worked did so at the behest of their families, particularly in impoverished rural areas, to supplement family income. Child workers in rural areas appeared to work primarily for township and village enterprises and in agriculture. In urban areas, they often worked as menial and street laborers. Some observers believed that coalmines, which often operated far from urban centers and out of the purview of law enforcement officials, also occasionally employed children. The Government argued that the existence of a large adult migrant labor force, often willing to work long hours for low wages, reduced the attractiveness of child labor for employers.

Some students worked in light industrial production within or for their schools. In March 2001, an explosion in Jiangxi Province at an elementary school that was also used to manufacture fireworks killed 42 persons, most of them schoolchildren who worked to assemble the fireworks. After parents of the children spoke to the press, the Government took disciplinary action against local officials who had attempted to cover-up the case as an attack by a "mad bomber." Provincial officials moved to tighten controls over Jiangxi's economically important fireworks industry. This incident may have served as a catalyst for greater government acknowledgement of the problem of child labor. In the autumn of 2001, the Government announced the formation of a multi-agency commission to study the issue. The commission failed to produce a public report. In October 2002, the State Council issued a regulation clarifying existing child labor prohibitions.

#### e. Acceptable Conditions of Work

The Labor Law provides for broad legal protections for workers on such matters as working hours, wages, and safety and health. The Trade Union Law invests unions with the authority to protect workers against violations of their legal rights or contractually agreed conditions of work. The Law on the Prevention and Treatment of Occupational Diseases, and the Production Safety Law identify responsibilities for work-related illness and accidents, and provide for specific penalties for violation of the law. However, there remained a substantial gap between the law's formal provisions for work conditions and the actual situation in the workplace.

There was no national minimum wage. The Labor Law allows local governments to determine their own standards for minimum wages. Local governments generally set their minimum wage at a level higher than the local minimum living standard but lower than the average wage. Widespread official corruption and efforts by local officials to attract and keep taxpaying, job-producing enterprises that might otherwise locate elsewhere undercut enforcement of the minimum wage provisions.

The Labor Law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of 3 hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, these standards were regularly violated, particularly in the private sector. They were particularly ignored in enterprises that could rely on a vast supply of low-skilled migrant labor. In many industries such as textile and garment manufacturing, compulsory overtime reportedly was common, often without overtime pay. During the year, auditors found that some factories routinely falsified overtime and payroll records. There also were reports of workers being prevented from leaving factory compounds without permission.

Occupational health and safety concerns remained serious. The poor enforcement of occupational health and safety laws and regulations continued to put workers' lives at risk. The State Administration for Work Safety (SAWS), which was administratively joined with the State Administration for Coal Mine Safety Supervision (SACMSS), was responsible for providing a nationwide framework for work safety. With enactment of the Work Safety Act in 2002, the Government gave SAWS/SACMSS a specific, detailed legal framework for its responsibilities. SAWS/SACMSS staffed nearly 70 field offices throughout the country. The Ministry of Health was responsible for prevention and treatment of occupational illness. Some provincial and local governments have followed the national pattern of establishing separate work safety agencies. However, enforcement of national health and safety standards, which was the responsibility of governments below the national level, remained very weak.

Workplace health and safety did not improve significantly during the year, and there continued to be a high rate of industrial accidents. According to official statistics, from January to September, there were 10,227 work-related accidents, resulting in 11,449 deaths, compared with 13,960 workplace accidents, resulting in 14,924 deaths, in 2002. Coalmines were by far the most deadly workplaces. In the first three quarters of the year, 2,802 coal mine accidents caused 4,620 fatalities. Coalmine accidents comprised approximately 27 percent of all non-traffic, non-fire-related workplace accidents, but accounted for approximately 40 percent of corresponding workplace deaths. Enterprise owners and managers sometimes failed to report accidents and health problems. Local officials also often underreported such incidents. As a result, the actual number of workplace deaths and casualties was likely far higher.

The high rate of coal mining accidents highlighted serious enforcement problems in that sector. However, government officials and media have been increasingly vocal about the need to control workplace accidents and increasingly frank in assessing blame. In May, following a major coalmine disaster in a state-owned mine in Anhui Province, SAWS/SACMSS Administrator Wang Xianzheng publicly criticized mine operation failures for the accident. In recent years, the Government has closed tens of thousands of small coalmines, many of them illegal operations, where the majority of accidents and casualties occurred. Despite these efforts, many mines reopened illegally soon after closing. Observers attributed the enforcement problem in the coal mining sector primarily to corruption, a need to sustain employment in poor areas where many of the most dangerous mines were located, and a paucity of inspectors.

Fewer than half of rural enterprises met national dust and poison standards. Many factories that used harmful products, such as asbestos, not only failed to protect their workers against the ill effects of such products, but also failed to inform them about the hazards.

Approximately 44.1 million workers reportedly participated in the country's new work-injury insurance system at the end of 2002. In recent years, small but growing numbers of workers also began to use lawsuits to pursue work injury and illness claims against employers.

#### f. Trafficking in Persons

The law prohibits trafficking in women and children; however, trafficking in persons and the abduction of women for trafficking remained serious problems. The country was both a source and destination country for

trafficking in persons. Most trafficking was internal for the purpose of providing lower-middle income farmers with brides or sons, but a minority of cases involved trafficking of women and girls into forced prostitution in urban areas, and some reports suggested that some victims, especially children, were sold into forced labor.

Internal trafficking was a significant problem. The Ministry of Public Security estimated that 9,000 women and 1,000 children were kidnapped and sold illegally each year.

Some experts suggested that the serious imbalance in sex ratios in some regions (see Section 1.f.) had created a situation in which the demand for marriageable women could not be met by local brides, thus fueling the demand for abducted women. The problem of a shortage of marriageable women was exacerbated by the tendency for many village women to leave rural areas to seek employment. In addition, the cost of traditional betrothal gifts given to a bride's family sometimes exceeded the price of a trafficked bride and thus made purchasing a bride more attractive to poor rural families. Some families addressed the problem of a shortage of women by recruiting women in economically less advanced areas. Others sought help from criminal gangs, which either kidnapped women and girls or tricked them by promising them jobs and an easier way of life and then transported them far from their home areas for delivery to buyers. Once in their new "family," these women were "married" and raped. Some accepted their fate and joined the new community; others struggled and were punished. Many kidnappings reportedly also occurred in provinces where the male to female ratio was generally balanced.

There were reports that women and girls from Burma, Laos, North Korea, Vietnam, and Russia were trafficked into the country either to work in the sex trade or to be forced to marry Chinese men. Trafficking of North Korean women and girls into the country to work in the sex industry was reportedly widespread in the northeastern part of the country; border guards reportedly were involved. Many such women, unable to speak Chinese, were virtual prisoners. Others stayed in their new situation because the country was less poverty-stricken than North Korea. A few of the Korean women were sold against their will to rural men in both ethnic Korean and ethnic Han areas. Others ended up working as prostitutes. According to press reports, North Korean brides were sold for approximately \$38 (RMB 315) to \$150 (RMB 1,245). Women reportedly also were trafficked from Vietnam into the country for purposes of forced marriage.

Chinese citizens were trafficked from the country for sexual exploitation and indentured servitude in domestic service, sweatshops, restaurants, and other services. There were reports that Chinese citizens were trafficked to Australia, Belgium, Burma, Canada, Hungary, Italy, Japan (illegal immigrants held in debt bondage), Malaysia, the Netherlands (for the purpose of sexual exploitation), Singapore, Sri Lanka (for sexual exploitation), Taiwan, the United Kingdom (for sexual exploitation), and the United States. A large number of citizens were trafficked through Hong Kong.

Alien smuggling rings often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped that their economic prospects would improve. There were credible reports that some promised to pay from \$30,000 to \$50,000 (RMB 248,000 to 415,000) each for their passage. Upon arrival, many reportedly were forced to repay the traffickers for the smuggling charges by working in specified jobs for a set period of time. They often also were forced to pay charges for living expenses out of their meager earnings. The conditions under which these trafficked persons had to live and work were generally poor, and they were often required to work long hours. The smuggling rings that trafficked them often restricted their movements, and their travel documents, which were often fraudulent, frequently were confiscated. Victims of trafficking faced threats of being turned in to the authorities as illegal immigrants and threats of retaliation against their families at home if they protested the situation in which they found themselves. Persons who were trafficked from the country and then repatriated sometimes faced fines for illegal immigration upon their return; after a second repatriation, such persons could be sentenced to reeducation through labor. Alien smugglers were fined \$6,000 (RMB 49,600), and most were sentenced to up to 3 years in prison; some have been sentenced to death.

Kidnapping and the buying and selling of children continued to occur, particularly in poorer rural areas. There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children; in particular, boys were trafficked to couples unable to have a son. However, baby girls also were trafficked. In March, police found 28 girls packed in suitcases on a bus going from Guangxi Province to Anhui Province apparently for sale. The oldest was 3 months of age; one baby died en route. Children were also trafficked for labor purposes. Children trafficked to work usually were sent from poorer interior areas to relatively more prosperous areas; traffickers reportedly often enticed parents to relinquish their children with promises of large remittances that their children would be able to send to them. The Ministry of Public Security uses DNA technology to confirm parentage, operating a national DNA databank.

The purchase of women was not criminalized until 1991, with the enactment of the NPC Standing Committee's "Decision Relating to the Severe Punishment of Criminal Elements Who Abduct and Kidnap Women and Children." This decision made abduction and sale separate offenses.

Arrests of traffickers have decreased from the peak in 2000, when a nationwide crackdown was initiated. That year, more than 19,000 persons were arrested and more than 11,000 were sentenced to punishments, including, in a few cases, the death penalty. According to official media reports, 110,000 women and 13,000 children who had been abducted were rescued in 2000. In 2002, official statistics indicate that authorities registered 1,897 cases involving trafficking of women and children (54.6 percent fewer than reported in 2000); uncovered 1,585 new cases of trafficking (56.2 percent fewer than in 2000); and rescued a total of 11,000 trafficked women and children.

Despite government efforts to eliminate trafficking in women and children, the problem persisted. Demand far outstripped the available supply, making trafficking a profitable enterprise for those willing to risk arrest and prosecution. The Government also continued to struggle with the pervasive problem of official corruption, as demonstrated by the prosecution and sentencing of over 83,000 officials on corruption-related charges in 1998-2002 (see Section 3). There were reports of complicity of local officials in the related problem of alien smuggling, as well as reports of the complicity of local officials in prostitution, which sometimes involved trafficked women. Disregard of the law also manifested itself at the village level, where village leaders have in some cases sought to prevent police from rescuing women who have been sold as brides to villagers.

Agencies involved in combating trafficking included the Ministry of Public Security, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council. Some victims of domestic trafficking were given assistance and returned to their homes. It was Central Government policy to provide funds to provincial and local police to house victims and return them to their homes. Government-funded women's federation offices provided counseling on legal rights, including the options for legal action against traffickers, to some victims. The All-China Women's Federation assisted victims in obtaining medical and psychological treatment.

## TIBET

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China. The Department of State follows these designations in its reporting. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage and the protection of its people's fundamental human rights continue to be of concern.

### Respect for Integrity of the Person

The Government's human rights record in Tibetan areas of China remained poor, although some positive developments continued. The Government permitted a second visit to the country by the Dalai Lama's representatives and provided reporters and foreign officials with somewhat greater access to the TAR. The Government controlled information about all Tibetan areas, and in addition, strictly controlled access to the TAR, making it difficult to determine accurately the scope of human rights abuses. Authorities continued to commit serious human rights abuses, including execution without due process, torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetans for peacefully expressing their political or religious views. Deaths of at least 41 Tibetan political prisoners since 1989 can be attributed to severe abuse under detention; at least 20 of those prisoners had been in Lhasa's TAR Prison (also known as Drapchi Prison). The overall level of repression of religious freedom in the TAR, while somewhat less oppressive for lay followers than in previous years, remained high. Conditions generally were less restrictive in Tibetan areas outside of the TAR. Individuals accused of political activism faced ongoing harassment during the year. There were reports of imprisonment and abuse of some nuns and monks accused of political activism. Security was intensified during sensitive anniversaries and festival days in some areas, while activities viewed as vehicles for political dissent, including celebration of some religious festivals, were suppressed. There were reports of small-scale political protests in a number of Tibetan areas.

On January 26, Tibetan Lobsang Dondrub was executed for alleged involvement in a series of bombings in Sichuan Province in 2002. The death sentence of Buddhist teacher Tenzin Deleg on the same charges was deferred for 2 years. The trials of the two men were closed to the public on "state secrets" grounds, and they were denied due process, including access to adequate representation. Lobsang Dondrub's execution the same day he lost his appeal to the Sichuan Provincial Higher People's Court, as well as the failure of the national-level Supreme People's Court to review the case as promised to foreign officials, raised serious concerns in the international community. In March, two Tibetans were reportedly arrested for providing information to foreign individuals about the investigation of the 2002 bombings in Sichuan Province for which Lobsang Dondrub and Tenzin Deleg received death sentences. In April, four individuals arrested with Tenzin Deleg were reportedly released. In July, two more individuals, Tsering Dondrub and Tashi Phuntsog, were reported by nongovernmental organizations (NGOs) to have been released, but officials denied that such a release took place. Their whereabouts remained uncertain at year's end.

In January, monks Kalsang Dondrub and Ngawang Dondrub were sentenced in Qinghai Province on charges of "endangering state security" for nonviolent political activities.

On April 11, Kunchok Choephel Labrang and Jigme Jamtruk, two monks from Labrang Tashikyil Monastery in Kanliho Prefecture, Gansu Province, were arrested for possessing booklets containing speeches of the Dalai Lama, according to the Tibetan Center for Human Rights and Democracy. Jigme Jamtruk was reportedly released on bail after 13 days' detention; the whereabouts of Kunchok Choephel Labrang remained unknown at year's end.

On June 27, Yeshe Gyatso, a member of the Chinese People's Political Consultative Conference, and Tibet University Student Dawa Tashi were detained on charges of "splitting the motherland, undermining unity of nationalities, and violating the constitution." Government officials stated that Dawa Tashi "confessed" and was released. Yeshe Gyatso subsequently was sentenced to 6 years' imprisonment, but was released in November in ill health.

In August, the Government announced that two monks, Jamphel Jangchub and Ngawang Oezer, imprisoned at Lhasa's TAR Prison for joining a pro-independence group in Drepung Monastery in the 1980s, received sentence reductions of 3 and 2 years respectively.

On August 29, five monks and an unidentified lay artist received sentences of 1 to 12 years' imprisonment for alleged separatist activities, including painting a Tibetan national flag, possessing pictures of the Dalai Lama, and distributing materials calling for Tibetan independence. The monks were Zoepa, Tsogphel, Sherab Dargye (Sherdar), Oezer, and Migyur, all from Khangmar Monastery in Ngaba Prefecture, Sichuan Province.

On October 2, Nyima Dragpa, a monk from Nyatso Monastery, died in custody, allegedly from injuries sustained during severe beatings.

Many political prisoners remained in detention at year's end, including Tibetan nun Phuntsog Nyidrol, who was serving a long prison term for political offenses; Sonam Phuntsog, a Buddhist teacher in Kardze County, Sichuan Province, arrested in 1999 after leading a protest; Lhasa orphanage owners Jigme Tenzin and Nyima Choedron, convicted in 2002 of "espionage and endangering state security"; and approximately 10 persons detained in October 2002 in Kardze Town, Sichuan Province, in connection with long-life ceremonies for the Dalai Lama sponsored by foreign Tibetan Buddhists. The whereabouts of two other nuns, Jangchub Drolma and Chogdrub Drolma, remained unknown at year's end. They previously were confirmed to be incarcerated in Drapchi Prison.

Chadrel Rinpoche, released in January 2002 after 6 years and 6 months in prison for leaking information about the selection of the Panchen Lama, was reportedly still under house arrest near Lhasa.

The lack of independent access to prisoners and prisons made it difficult to ascertain the number of Tibetan political prisoners or to assess the extent and severity of abuses. The Tibet Information Network (TIN) estimated that approximately 150 Tibetans were imprisoned on political grounds, 75 percent of whom were monks or nuns. Approximately 60 political prisoners, most serving sentences for the now-repealed crime of counterrevolution, remained in TAR Prison in Lhasa. TIN's analysis indicated that the majority of Tibetan political prisoners were incarcerated in Lhasa and western Sichuan Province. While political imprisonment has declined in the TAR since its peak in 1996, since 1999 there has been an upsurge of detentions in certain areas of Sichuan Province, particularly in Kardze Prefecture.

There were credible reports that prisoners continued to be mistreated. For example, Tibetans repatriated to China from Nepal in May reportedly suffered torture, including electric shocks, exposure to cold, and severe beatings, and were forced to perform heavy physical labor. Their family members also were pressured for bribes to secure their release. Prisoners were subjected routinely to "political investigation" sessions and were punished if deemed to be insufficiently loyal to the state. Unrepentant political prisoners at the TAR Prison were sent to "isolation cells" for 6 months to 1 year to "break their spirit."

Legal safeguards for Tibetans detained or imprisoned were the same as those in the rest of China and were inadequate in both design and implementation. Most judges had little or no legal training. Authorities worked to address this problem through increased legal education opportunities. Since opening the first legal assistance center in the TAR in 2001, the Government claims clients involved in 149 cases, including 101 criminal cases, have received assistance. However, for most persons accused of political crimes, trials were cursory and were closed if issues of state security were involved. Under Chinese law, maximum prison sentences for crimes such as "endangering state security" and "splitting the country" were 15 years for each count, not to exceed 20 years in total. Such cases mainly concerned actions perceived to be in support of Tibetan independence, and activities did not have to be violent to be illegal or to draw a heavy sentence.

Family planning policies permitted Tibetans, like members of other minority groups, to have more children than Han Chinese. Urban Tibetans, including Communist Party members, were generally permitted to have two children. Rural Tibetans were encouraged, but not required, to limit births to three children. These regulations were not strictly enforced.

The Government regulated foreign travel to the TAR, requiring travelers to purchase tours through government-approved tourist agencies for entry to the TAR, and to secure permits for travel to some regions within the TAR. Official visits to the TAR were supervised closely and afforded delegation members very few opportunities to meet local persons not previously approved by the local authorities. Travel by foreigners and foreign NGO staff in the TAR was closely monitored, although some foreign NGOs reported fewer restrictions on their travel than in previous years.

Some Tibetans continued to report difficulties in obtaining passports, particularly in rural areas. The Government placed restrictions on the movement of Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were reports of arbitrary detention of persons, particularly monks, returning to China from Nepal. Detentions generally lasted for several months, although in most cases no formal charges were brought.

On May 31, the Government successfully pressured the Government of Nepal to repatriate to China 18 Tibetans, including several minors, who had crossed into Nepal from China apparently hoping to transit Nepal to India. Contrary to established practice, the office of the U.N. High Commissioner for Refugees (UNHCR) in Kathmandu was denied access to the group. The 18 Tibetans were forced onto a bus and driven back across the border into China, where they were detained, first at a border post and later at a prison in Shigatse. NGO reports indicated that up to seven individuals remained in detention until at least November. The detainees reportedly suffered severe torture, and the monks in the group were subjected to more beatings than the others. Most of the detainees also were pressured for bribes. Chinese officials maintained that 14 individuals were released shortly after their return to China. While two remained at the border post for medical reasons and two were detained for a time on suspicion of criminal behavior, officials stated that no criminal charges were filed and all of the individuals were released by year's end. According to NGO reports, approximately 400-500 Tibetans apprehended at border crossings reportedly were held at the "Tibet's New Reception Center" prison in Shigatse at year's end.

Forced labor reportedly was used in some prisons, detention centers, reeducation-through-labor facilities, and at work sites where prisoners were used as workers. Chinese law states that prisoners may be required to work up to 12 hours per day, with 1 rest day every 2 weeks, but these regulations often were not enforced. Prisoners at many sites received some remuneration and could earn sentence reductions by meeting or exceeding work quotas. At TAR Prison in Lhasa, male prisoners reportedly worked in vegetable fields and in factories. Female prisoners cleaned toilets and also were involved in tailoring, cleaning, or spinning and sorting wool to be used in the production of carpets and sweaters.

#### Freedom of Religion

In the TAR, the overall level of religious repression, while less oppressive for lay followers than in the past, remained high. The Government maintained tight controls on many monasteries and on monks and nuns. Although authorities permitted some traditional religious practices and public manifestations of belief, they promptly and forcibly suppressed activities viewed as vehicles for political dissent, such as religious activities perceived as advocating Tibetan independence or any form of separatism (which the Government describes as "splittist"). Security was intensified during the Dalai Lama's birthday, sensitive anniversaries, and festival days in the TAR and in some other Tibetan areas as well. Tibetan Buddhists in many areas outside the TAR had fewer restrictions on their freedom to practice their faith.

Most abbots and monks in Tibetan areas outside the TAR reported that they had greater freedom to worship, to conduct religious training, and to manage the affairs of their monasteries than their coreligionists within the TAR; however, restrictions remained. There were reports that some monks who had contacts while abroad with the Tibetan "government-in-exile" in India were prevented from returning to their home monasteries.

In 2002 and again during the year, the Government extended invitations to emissaries of the Dalai Lama to visit Tibetan and other areas of China. In September 2002, Lodi Gyari and Kelsang Gyaltsen, the Dalai Lama's representatives to the United States and Europe respectively, traveled to Beijing, Lhasa, and other cities where they met with a number of government officials. These were the first formal contacts between the Dalai Lama's representatives and the Government since 1993. They made a second trip to China in June 2003 to meet with Chinese officials and visited Shanghai, Beijing, and Tibetan areas in Yunnan Province. Additionally, Gyalo Thondup, the Dalai Lama's elder brother, visited in July 2002, making his first trip to the TAR since leaving in 1959. The Government asserted that the door to dialogue and negotiation was open, provided that the Dalai Lama publicly affirm that Tibetan areas and Taiwan are inseparable parts of China. In September, during a visit by the Dalai Lama to the United States, the Government resumed its practice of harshly criticizing what it perceived as the Dalai Lama's political activities and his leadership of a government-in-exile.

Government officials maintained that possessing or displaying pictures of the Dalai Lama is not illegal, but pictures of the Dalai Lama were not openly displayed in major monasteries. Pictures could not be purchased openly in the TAR, and possession of such pictures has triggered arrests in the past; therefore, Tibetans in the TAR were extremely cautious about displaying them. Diplomatic observers saw pictures of a number of

Tibetan religious figures, including the Dalai Lama, openly displayed in Tibetan areas outside the TAR. However, in the months following an August incident in which unknown individuals hung the banned Tibetan national flag from a radio tower, private displays of Dalai Lama pictures were confiscated in urban areas of two Sichuan counties.

Since the early 1990s, an average of 2,500 Tibetans have entered Nepal each year seeking refugee status to escape conditions in Tibet. The UNHCR reported that 2,248 Tibetans presented themselves at the UNHCR office in Nepal during the year, of whom 1,815 were found to be "of concern" and provided with basic assistance; the remaining 433 departed for India without being registered or processed by the UNHCR. In September, TAR Public Security Bureau officials told a visiting foreign delegation that 1,000 residents of the TAR receive passports each year, and that residents make 2,000-3,000 trips abroad each year. However, some Tibetans, particularly those from rural areas, continued to report difficulties in obtaining passports. Due in part to such difficulties and in part to the difficulty many Chinese citizens of Tibetan ethnicity encountered obtaining entry visas for India, it was difficult for Tibetans to travel to India for religious purposes. Nevertheless, many Tibetans, including monks and nuns, visited India via third countries and returned to China after temporary stays. Returned exiles were compelled to avoid discussing sensitive political issues.

Chinese officials stated that the TAR has 46,380 Buddhist monks and nuns and 1,787 monasteries, temples, and religious sites. Officials have cited almost identical figures since 1996, although the numbers of monks and nuns dropped at many sites as a result of the mid-1990s "patriotic education" campaign and the expulsion from monasteries and nunneries of many monks and nuns who refused to denounce the Dalai Lama or who were found to be "politically unqualified." These numbers represent only the TAR, where the number of monks and nuns was very strictly controlled; over 150,000 Tibetan Buddhist monks and nuns lived in Tibetan areas outside the TAR, according to informed estimates.

The Government continued to oversee the daily operations of major monasteries. The Government, which did not contribute to the monasteries' operating funds, retained management control of monasteries through the Democratic Management Committees (DMCs) and local religious affairs bureaus. Regulations restricted leadership of many DMCs to "patriotic and devoted" monks and nuns, and specified that the Government must approve all members of the committees. At some monasteries, government officials also sat on the committees.

In recent years, DMCs at several large monasteries began to use funds generated by the sales of entrance tickets or donated by pilgrims for purposes other than the support of monks engaged in full-time religious study. As a result, some "scholar monks" who had formerly been fully supported had to engage in income-generating activities. Some experts were concerned that, as a result, fewer monks will be qualified to serve as teachers in the future. The erosion of the quality of religious teaching in the TAR and other Tibetan areas continued to be a focus of concern. The quality and availability of high-level religious teachers in the TAR and other Tibetan areas was inadequate; many teachers were in exile, older teachers were not being replaced, and those remaining in Tibetan areas outside the TAR had difficulty securing permission to teach in the TAR.

In addition, in many places, particularly in the TAR, the Government continued to discourage the proliferation of monasteries, which it contended were a drain on local resources and a conduit for political infiltration by the Tibetan exile community.

The Government stated that there were no limits on the number of monks in major monasteries, and that each monastery's DMC decided independently how many monks the monastery could support. However, many of these committees are government-controlled, and in practice, the Government imposed strict limits on the number of monks in many major monasteries, particularly in the TAR. The Government had the right to disapprove any individual's application to take up religious orders; however, these restrictions were not uniformly enforced. In some areas, it is against regulations to join a monastery before the age of 18, but boys as young as 11 continued to enter some monasteries.

Government officials stated that the "patriotic education" campaign, which began in 1996, had ended prior to the reporting period. Officials acknowledged, however, that monks and nuns continued to undergo mandatory political education or "patriotic education" on a regular basis at their religious sites. Training sessions were aimed at enforcing compliance with government regulations, and either cowing or weeding out monks and nuns who refused to follow Party directives and who remained sympathetic to the Dalai Lama. Monks and nuns were often required to demonstrate their patriotism by signing a declaration by which they agreed to reject independence for Tibet; reject Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the 11th incarnation of the Panchen Lama; reject and denounce the Dalai Lama; recognize the unity of China and Tibet; and vow not to listen to the Voice of America or Radio Free Asia. During the patriotic education campaign, noncompliant monks and nuns were expelled from religious sites, while others chose to depart rather than denounce the Dalai Lama. Because of these efforts to control the Buddhist clergy and monasteries, anti-government sentiment remained strong.

On May 27, authorities reportedly detained and released monks Taming, Palzin, and Shongdu, and lay driver

Ngodup for their involvement in a December 2002 protest against building demolitions at the Serthar Buddhist Study Institute, also known as the Larung Gar monastic encampment, located in Sichuan Province's Kardze Prefecture. Since demolishing buildings and expelling several thousand monks and nuns in 2001, authorities continued to exercise tight control over the community. Authorities allowed only approximately 1,000 monks and nuns to remain at the site, strictly controlled the number of Han Chinese practitioners, and refused permits for further construction or maintenance of the facility. The Government maintained that the facility, which housed the largest concentration of monks and nuns in the country, was reduced in size for sanitation and hygiene reasons. Foreign observers believed that the authorities acted against the Institute because of its size and the influence of its charismatic founder, Khenpo Jigme Phuntsog.

Most Tibetans practiced Buddhism to some degree. This held true for many Tibetan government officials and Communist Party members. In the TAR alone, some 615 Tibetan Buddhist religious figures held positions in local People's Congresses and committees of the Chinese People's Political Consultative Conference. However, the Government continued to insist that Communist Party members and senior government employees adhere to the Party's code of atheism, and routine political training for government cadres continued to promote atheism. Authorities also continued to pressure public sector employees, through political training and threats of termination, to demonstrate their loyalty to the State and refrain from actions that could be construed as lending explicit or tacit support to the Dalai Lama. Public sector employees in the TAR also reportedly were pressured not to send their children to India to be educated.

A large percentage of the members of the religious affairs bureaus were non-Tibetans, and all were members of the Communist Party.

On July 6, Tibetans were prohibited from actively celebrating the Dalai Lama's birthday. However, celebrations of major religious festivals such as Monlam, Sagadawa, and the Drepung Shodon were marked by a somewhat more open atmosphere and a diminished security presence.

In September, two attendants of the Karmapa Lama detained in 2002 were released. The Karmapa Lama, Urgyen Trinley Dorje, the leader of Tibetan Buddhism's Karma Kagyu school and one of the most influential religious figures of Tibetan Buddhism, secretly left the TAR for India in December 1999. In several public statements, the Karmapa Lama asserted that he left because of controls on his movements and the Government's refusal to allow him to go to India to be trained by his spiritual mentors or to allow his mentors to come to him. During the year, authorities continued to restrict access to Tsurphu Monastery, the seat of the Karmapa Lama, and TIN reported that no new monks were being permitted to enter the monastery.

Since the Karmapa Lama left the TAR in 1999, the authorities have increased efforts to exert control over the process for finding and educating reincarnate lamas. The Government approved the seventh reincarnation of Reting Rinpoche in January 2000, but many of the monks at Reting Monastery reportedly did not accept the child as Reting Rinpoche because the Dalai Lama did not recognize his selection. Another young reincarnate lama, Pawo Rinpoche, who was recognized by the Karmapa Lama in 1994, lived under strict government supervision at Nenang Monastery. NGOs reported that he was denied access to his religious tutors and required to attend a regular Chinese school. During the year, foreign delegations were refused permission to visit Nenang Monastery.

The Panchen Lama is Tibetan Buddhism's second most prominent figure, after the Dalai Lama. The Government continued to insist that Gyaltzen Norbu, the boy it selected in 1995, is the Panchen Lama's 11th reincarnation. Gyaltzen Norbu made his second highly orchestrated visit to Tibetan areas in August, and his public appearances were marked by a heavy security presence. The Government refused to recognize the Dalai Lama's choice of another boy, Gendun Choekyi Nyima, who first disappeared in 1995, when he was 6 years old, and it tightly controlled all aspects of the "official" Panchen Lama's life. On August 5, the Government announced that Gendun Choekyi Nyima is "now a student and is studying well," but continued to ban pictures of the boy and refused all requests from the international community for access to confirm his whereabouts and well-being. The vast majority of Tibetan Buddhists continued to recognize Gendun Choekyi Nyima as the Panchen Lama. The Communist Party urged its members to support the "official" Panchen Lama, and government authorities at both the regional and city levels had pictures of the boy printed for use in public and private religious displays; however, very few photographs of him were on display. Instead, more prominently displayed were pictures of the 10th Panchen Lama, which some foreign observers interpreted as a rejection of Gyaltzen Norbu.

The Government stated that since 1949 it had contributed \$72.64 million (RMB 600 million) toward the restoration of historical buildings in the TAR, including over 1,400 Tibetan Buddhist sites which were destroyed before and during the Cultural Revolution. The Government has carried out similar restoration efforts in Tibetan areas outside the TAR, although aggregate figures are not known. However, many hundreds of monasteries were never restored, and others remained in partial ruins. Government funding of restoration efforts ostensibly was done to support the practice of religion, but also was done in part to promote the development of tourism. Many recent restoration efforts were funded privately, although a few religious sites also received government support for reconstruction projects.

## Economic Development and Protection of Cultural Heritage

According to China's 2000 census, the population of Tibetans in the TAR was 2,427,168. The population of Tibetans in autonomous prefectures and counties outside the TAR was 2,927,372. The TAR is one of China's poorest regions, and ethnic Tibetans are one of the poorest groups. The Central Government and other provinces of China heavily subsidized the TAR economy, which, according to official government statistics, grew by an average annual rate of over 10 percent for the last decade. Over 90 percent of the TAR's budget came from outside sources, and residents of the TAR benefited from a wide variety of favorable economic and tax policies. Tibetan autonomous areas outside the TAR benefited to varying degrees from similar favorable policies. Government development policies helped raise the living standards of most Tibetans, particularly by providing better transportation and communications facilities. However, while overall standards of living have risen, Tibetans' real incomes remained well below those of persons in other parts of the country, and Han Chinese benefited disproportionately from the Government's development policies in Tibetan areas. Marriage and family planning policies, and, to a lesser extent, university admissions and government employment policies, are less restrictive for Tibetans as one of China's 55 minority ethnic groups. According to official government statistics, 79.4 percent of all government employees in the TAR were Tibetans. Nevertheless, many positions of political authority were held by Han Chinese, and most key decisions in the TAR were made by Han. A similar situation pertained in Tibetan areas outside the TAR.

The Dalai Lama, Tibetan experts, and other observers expressed concern that development projects and other Central Government policies initiated in 1994 and reemphasized and expanded at the "Fourth Tibet Work Conference" in 2001, including the Qinghai-Tibet railroad, would continue to promote a considerable influx of Han, Hui, and other ethnic groups into the TAR. They feared that the TAR's traditional culture and Tibetan demographic dominance would be overwhelmed by such migration.

Some Tibetans reported that they experienced discrimination in employment for some urban occupations, and claimed Han were hired preferentially for many jobs and received greater pay for the same work. For example, of the 38,000 persons working on the Qinghai-Tibet railroad, only 6,000 were Tibetan. Some Tibetans reported that it was more difficult for Tibetans than Han to get permits and loans to open businesses. In addition, the widespread use of the Chinese language in urban areas and many businesses limited opportunities for many Tibetans. Fundamental worker rights recognized by the International Labor Organization, including the right to organize and the right to bargain collectively, which were broadly denied in the rest of China, were also denied in Tibetan areas.

Although Chinese officials asserted that 92 percent of the officially registered population in the TAR was Tibetan, they acknowledged that these figures did not include the large number of "temporary" Han residents, including military and paramilitary troops and their dependents, many of whom had lived in the TAR for years. Furthermore, freer movement of persons throughout China, government-sponsored development, and the prospect of economic opportunity in the TAR have led to a substantial increase in the non-Tibetan population, including both China's Muslim Hui minority and Han Chinese, in Lhasa and other urban areas, as migrant workers from China's large transient population sought to take advantage of the new economic opportunities. Most of these migrants professed to be temporary residents, but small businesses run by Han and Hui citizens, mostly restaurants and retail shops, predominated in almost all TAR cities. Many observers estimated that more than half of Lhasa's population was Han Chinese, and even official estimates put the number of temporary Han Chinese residents in Lhasa at over 100,000 out of a total population of 409,500. Elsewhere in the TAR, the Han percentage of the population was significantly lower. In rural areas, the Han presence was often negligible.

Rapid economic growth, the expanding tourism industry and the introduction of more modern cultural influences also have disrupted traditional living patterns and customs and threatened traditional Tibetan culture. In Lhasa, the Chinese cultural presence was obvious and widespread. In 2002, many traditional Tibetan-style buildings located in the UNESCO-protected downtown area of Lhasa were demolished. The Chinese language was spoken widely, and Chinese characters were used in most commercial and official communications.

Although the TAR Government passed a law in March 2002 stating the equality of Tibetan and Chinese as official languages and promoting the development of Tibetan, the dominant position of the Chinese language in government, commerce, and academia undermined the ability of younger Tibetans to speak and read their native language.

According to 2002 official government statistics, 32.5 percent of persons in the TAR were illiterate or semi-literate. However, illiteracy and semi-literacy rates were as high as 90 percent in some areas. Government statistics indicated that 85.8 percent of eligible children attended primary school, and the Government announced plans for 95 percent of children in the TAR to receive 6 years of compulsory education by 2005; however, in practice, many pupils in rural areas received only 1 to 3 years of education.

In the TAR and other Tibetan areas, many primary schools at the village level followed a Tibetan curriculum.

According to local education officials, Tibetan was the main language of instruction in 60 percent of middle schools in the TAR, predominantly in more remote areas, although there were also special classes offering instruction in Chinese. However, some NGOs maintained that the official figures were inaccurate, claiming that fewer Tibetan children received instruction in the Tibetan language. Most of those who attended TAR regional high schools continued to receive some of their education in Tibetan, but knowledge of Chinese was essential as most classes were in Chinese. Tibetan curriculum high schools existed in a few areas. The Government continued to allocate funds to enable Tibetan students to study in secondary schools elsewhere in China. According to government figures, there were 13,000 Tibetan students from the TAR studying in approximately 100 schools in 26 different parts of China. Knowledge of Chinese usually was necessary to receive a higher education, although some colleges established to serve ethnic minorities allowed for study of some subjects in Tibetan. In general, opportunities to study at privately funded Tibetan-language schools or to receive a traditional Tibetan-language religious education were greater in Tibetan areas outside the TAR.

On July 29, authorities reportedly closed the Ngaba Kirti Monastic School in Ngaba Prefecture, Sichuan Province, and summoned its chief patron, Soepa Nagur, to Sichuan's capital city Chengdu, according to the Tibetan Center for Human Rights and Democracy. Founded in 1994 with private funds to provide traditional Tibetan and monastic education to rural residents, the school attracted the attention of local authorities in 1998, who forced the school to change its name, include secular subjects in its curriculum, and finally merge with another nearby institution.

Authorities reportedly required professors, particularly those from Tibet University's Tibetan language department, which was viewed as a potential source of dissent, to attend political education sessions and limited course studies and materials in an effort to prevent separatist political and religious activity on campus. Many ancient or religious texts were banned from the curriculum for political reasons. Tibet University was established to train Tibetan teachers for the local educational system; however, Han representation in the student body and faculty far exceeded their proportion of the total TAR population. Although Tibetans were given admission preference, Han Chinese students frequently gained admission because they scored higher on admission exams due to stronger Chinese-language skills and educational backgrounds.

Malnutrition among Tibetan children continued to be widespread in many areas of the TAR. This was particularly true of rural areas and resulted in high rates of stunted growth among children. Nutritional deficiency ailments, such as goiter (from a lack of iodine), night blindness (from a lack of Vitamin A), and rickets were said to be relatively common among children in some areas. Special programs, sponsored by both government bodies and foreign NGOs, were in place in some areas to address these problems.

Prostitution was a growing problem in Tibetan areas, as it was elsewhere in the country. Hundreds of brothels operated semi-openly in Lhasa. Up to 10,000 commercial sex workers may have been employed in Lhasa alone. Some of the prostitution occurred at sites owned by the Party, the Government, and the military. Most prostitutes in the TAR were Han women, mainly from Sichuan. However, some Tibetans, mainly young girls from rural or nomadic areas, also worked as prostitutes. The incidence of HIV/AIDS among prostitutes in Tibetan areas was unknown, but lack of knowledge about HIV transmission and economic pressures on prostitutes to engage in unprotected sex made an increase in the rate of HIV infection likely.

In July, the TAR Tourism Bureau confirmed that it had fired a number of Tibetan tour guides educated in India or Nepal, and brought 100 tour guides from other provinces to work in the TAR during the summer tourist season. Government officials stated that all tour guides working in the TAR will be required to seek employment with the Tourism Bureau and to pass a licensing exam on tourism and political ideology. The Government's stated intent in dismissing the Tibetans was to ensure that all tour guides provide visitors with the Government's position opposing Tibetan independence and the activities of the Dalai Lama. The Tourist Bureau's monopoly does not extend to Tibetan areas outside the TAR, and some tour guides educated abroad reportedly moved to those areas, where they could offer their services more freely.

The Tibetan language services of Voice of America and Radio Free Asia (RFA), as well as of the Oslo-based Voice of Tibet, suffered from the same jamming of their frequencies by Chinese authorities as their Chinese language services. However, Tibetans were able to listen to the broadcasts at least some of the time. RFA stated that Tibetans were subject to intimidation and fines for listening to foreign-language broadcasts.

Although the Government made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continued to limit the fundamental freedoms of Tibetans and risked undermining Tibet's unique cultural, religious, and linguistic heritage.

## **HONG KONG**

Hong Kong is a Special Administrative Region (SAR) of the People's Republic of China (PRC) and maintains a high degree of autonomy except in matters of defense and foreign affairs. It has well-established institutions that support the rule of law and a vigorous civil society. The Basic Law, the SAR's constitution, was approved

by the PRC in 1990. It provides for the protection of fundamental rights and calls for progress toward universal suffrage and further democratization after a 10-year period, starting with Hong Kong's July 1, 1997, reversion to Chinese sovereignty. The Chief Executive is chosen by an 800-person selection committee composed of individuals who are either directly elected, indirectly elected, or appointed. The Chief Executive supervises a cabinet of principal officers whom he appoints. The power of the Legislative Council (legislature) is significantly circumscribed by the Basic Law. The legislature is composed of 24 directly elected members representing geographic districts, 30 indirectly elected members representing functional (occupational) constituencies, and 6 members elected indirectly by an election committee. Majorities are required in both the geographic and the functional constituencies to pass legislation introduced by individual legislators. Members may not initiate legislation involving public expenditure, political structure, government operations, or government policy. By law and tradition, the judiciary is independent and the Basic Law vests Hong Kong's highest court with the power of final adjudication; however, under the Basic Law, the Standing Committee of the PRC's National People's Congress (NPC) has the power of final interpretation of the Basic Law.

A well-supervised police force under the firm control of civilian authorities maintained public order. An Independent Police Complaints Council, made up of public members appointed by the Chief Executive, monitored and reviewed the work of an office that investigated public complaints against the police. The 4,000 Chinese troops sent to Hong Kong in 1997 to replace the British military garrison have maintained a low profile and have not performed or interfered in police functions.

Hong Kong, with a free market economy, is an international trade, shipping, and finance center and is a principal platform for trade and investment with the PRC. The economy has suffered 6 years of deflation. However, despite the Severe Acute Respiratory Syndrome (SARS) outbreak, recovery since May led to an annual gross domestic product (GDP) growth rate of approximately 2.25 percent. Per capita GDP was approximately \$24,000; the population was approximately 6.8 million.

The Government generally respected the human rights of residents, and the law and judiciary provided effective means of dealing with individual instances of abuse. Human rights problems that existed both before and after the handover included: Limitations on residents' ability to change their government and limitations on the power of the legislature to affect government policies; violence and discrimination against women; discrimination against ethnic minorities; restrictions on workers' rights to organize and bargain collectively; and trafficking in persons for the purposes of forced labor and prostitution. Despite the ban on the Falun Gong in mainland China, the Falun Gong remained legally registered and practitioners continued their activities in Hong Kong.

In September, the Government withdrew from legislative consideration proposed national security legislation required by Article 23 of the Basic Law. The withdrawal followed a series of large protests, including a July 1 demonstration in which approximately 500,000 persons participated, and intense public debate about the impact of such legislation on civil liberties and fundamental freedoms. Article 23 calls for the Government to draft and implement laws that criminalize subversion, secession, treason, sedition, and theft of state secrets, and to criminalize links with foreign political organizations that are harmful to national security. During the year, public demands also increased for the implementation of universal suffrage in the 2007 Chief Executive election and the 2008 Legislative Assembly election. In response, the Government announced that it would provide a timetable for public consultations by the end of the year. The Government's plan was to commence consultations early in 2004 and 2005 and enact necessary legislation in 2006. However, following consultations with the PRC Government, a timetable for public consultations was not announced at year's end.

## RESPECT FOR HUMAN RIGHTS

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

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

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

During the first 6 months of the year, there were three deaths in prison, which were determined to be suicides. An inquest into a 2001 case of death in police custody concluded that the cause of death was unknown.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The law forbids torture and other abuse by the police. There were allegations of assault by police officers

during the year. The law stipulates punishment for those who violate these prohibitions. Disciplinary action can range from warnings to dismissal. Criminal proceedings may be undertaken independently of the disciplinary process. Allegations of excessive use of force are required to be investigated by the Complaints Against Police Office (CAPO), whose work is monitored and reviewed by the Independent Police Complaints Council (IPCC), a body composed of public members appointed by the Chief Executive.

During the year, CAPO received 427 allegations of assault by police officers against persons in custody and 267 allegations of assault against persons not in custody, out of a total of 42,051 arrests. Of the 427 allegations of assault by police officers against persons in custody, in 196 cases investigations were completed and endorsed by the IPCC, and none was substantiated: 126 were withdrawn, 54 were deemed "not pursuable," 13 were judged to be false, and 3 were judged "unsubstantiated." The remaining 231 cases were pending at year's end. Of the 267 allegations of assault against persons not in custody, there were 141 cases in which investigations were completed and endorsed by the IPCC, while none were substantiated: 86 were withdrawn, 33 were deemed "not pursuable," 1 was judged to be "no fault," 8 were judged to be false, and 13 were judged "unsubstantiated." The remaining 126 cases were pending at year's end. At year's end, in response to concerns about the police being responsible for investigating their own misconduct, the Government was drafting a bill to provide a statutory basis for the IPCC, which would allow it to set up its own secretariat, receive funding to hire its own permanent staff, and initiate investigations.

In 2001, six police officers accused of assaulting a television cameraman during interrogation were acquitted in District Court. An internal police disciplinary inquiry into the case was completed during the year. All of the officers received letters of warning in their service records and one of the six, a senior inspector, was convicted and issued a caution.

Prison conditions generally met international standards. Men and women were housed separately, juveniles were housed separately from adults, and pretrial detainees were held separately from convicted prisoners. For the first 6 months of the year, the average occupancy rate for Hong Kong's 24 prisons was 107 percent. Overcrowding was most serious in maximum-security prisons, which operated at an average occupancy rate of 126 percent. The Government continued its efforts to address the problem of prison overcrowding by remodeling existing buildings to provide space for additional prisoners and redistributing the prison population. In addition, completion of the Immigration Department's Detention Center in Tuen Mun in 2005 is expected to provide 400 additional places and eliminate the housing of immigration offenders in prison or detention facilities managed by the Correctional Services Department.

The Government permitted prison visits by human rights observers. Local justices of the peace regularly inspected prisons, and most of these visits were unannounced.

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

Common law, legal precedent, and the Basic Law provide substantial and effective legal protection against arbitrary arrest or detention, and the Government generally observed these provisions in practice. Suspects must be charged within 48 hours or released. In 2002, the average length of pre-conviction incarceration did not exceed 50 days.

Corruption was not a significant problem within the SAR's well-supervised police force, and police officers were subject to disciplinary review by CAPO and IPCC in cases of alleged misconduct (see Section 1.c.).

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

#### e. Denial of Fair Public Trial

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

In a controversial 1999 "right of abode" case (concerning the right of certain persons to reside in Hong Kong), the Government, after losing the case in the Court of Final Appeals, sought a reinterpretation of relevant Basic Law provisions from the Standing Committee of the PRC's National People's Congress. This action raised questions about the independence and ultimate authority of the judiciary. After the controversy, the Government expressed its intention to make recourse to the NPC interpretation mechanism a rare and exceptional act, and there have been no such occurrences since the one instance in 1999.

The Court of Final Appeal is the SAR's supreme judicial body. An independent commission nominates judges; the Chief Executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. The Basic Law provides that, with the exception of the Chief Justice and the Chief Judge of the High Court, who are prohibited from residing outside of Hong Kong, foreigners may serve on the courts. In 2002, approximately 40 percent of judges were expatriates from other common law jurisdictions. Judges have security of tenure until retirement age (either 60 or 65, depending on the date of appointment).

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

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. Trials were by jury except at the magistrate-court level, and the judiciary provided citizens with a fair and efficient judicial process.

Under corruption prosecution rules, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that which is commensurate with his official income or who is in control of monies or property disproportionate to his official income is, unless he can satisfactorily explain the discrepancy, guilty of an offense. The courts have upheld this practice.

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

Some human rights groups alleged that the Government has not protected vigorously enough the interests of Hong Kong residents arrested and imprisoned in mainland China. Hong Kong authorities stated that there is no agreement allowing them access to Hong Kong residents arrested or detained in mainland China, even after conviction. Under an agreement signed in 2000 and in effect since 2001, PRC and SAR public security authorities are required to notify each other of certain categories of detentions of each other's residents. A human rights group alleged that the Government has not sought information concerning Hong Kong residents convicted prior to 2001 and still serving sentences on the mainland. An estimated 500-1,000 Hong Kong residents were imprisoned in mainland China at year's end, including political prisoners such as Xu Zerong, a Hong Kong permanent resident teaching at universities in southern China who was sentenced in 2002 to 13 years in prison for "illegally providing state secrets" by sending confidential reference materials on the Korean War to a contact in Hong Kong.

There were no reports of political prisoners.

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

The law prohibits arbitrary interference with privacy, family, home, and correspondence, and the Government generally respected these prohibitions in practice. Interception of communications was conducted under the Telecommunications Ordinance and the Post Office Ordinance. Wiretaps require high-level authorization for interception operations, but a court-issued warrant is not required. The Government did not release information regarding how often the Chief Executive used his powers to authorize telephone wiretaps and interception of private mail.

The Office of the Privacy Commissioner for Personal Data (PCO), established under the Personal Data (Privacy) Ordinance (PDPO), is tasked with preventing the misuse and disclosure of data such as medical and credit records. The PDPO also prohibits matching sets of personal data without the consent of the subject individual or the commissioner, although some government departments were exempted in order to combat

social welfare abuse and tax evasion. Some violations of the PDPO constitute criminal offenses. In other cases, an injured party may seek compensation through civil proceedings. If the PCO believes that violations may continue or be repeated, it may issue enforcement notices to direct remedial measures. Between June 2002 and June 2003, the PCO investigated 1,111 complaints of suspected breaches of the ordinance, completing action on 1,016. The PCO found violations of the PDPO in 34 of these cases, with none resulting in prosecution. In 153 of the cases, contravention of the PDPO requirements was not established due to insufficient evidence, while 557 cases were resolved or rejected after preliminary inquiries. The remaining 272 cases were not pursued because complainants were unreachable or withdrew their complaints during the course of investigation. The PDPO is not applicable to PRC government organs in Hong Kong. At year's end, the Government was still considering whether it should be made applicable to PRC bodies. Under certain exemptions for purposes related to safeguarding the security, defense, or international relations of Hong Kong, and for the prevention, detection, or prosecution of a crime, Hong Kong authorities may be allowed to transfer personal data to a PRC body.

In 2002, the Government introduced a draft privacy code that sought to outlaw secret video cameras and monitoring of e-mail and phone calls in the workplace by employers. At year's end, legislation had not been passed.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. A wide range of views and topics appeared in the press, including articles critical of the PRC and Hong Kong SAR governments. In their annual report, released in June, the Hong Kong Journalists Association asserted that some journalists and news media practiced a degree of self-censorship, mainly in PRC-related reporting. Overall, the media has been outspoken in defending civil liberties. The Telecommunications Ordinance potentially allows limits on some speech and press freedoms by granting the Government wide-ranging powers to ban messages whenever it "considers that the public interest so requires." In practice, the Government has never invoked this law to limit freedom of speech.

The Basic Law's Article 23 requires the Government to enact legislation prohibiting treason, secession, sedition, subversion against the Central People's Government, and theft of state secrets, and to criminalize links with foreign political organizations that are harmful to national security. In 2002, the Government released a consultation document proposing guiding principles for the legislation. After the controversial legislation was introduced into the Legislative Council in February, the Government proposed a series of amendments to address public concerns from interested parties such as media and legal groups that the bill could restrict fundamental rights and freedoms. Of particular concern were the proposed extension of treason, sedition, secession, and subversion criminal offenses to permanent residents, without regard to nationality or legal domicile; the proposal to ban organizations affiliated with mainland political organizations that have been banned by the PRC on national security grounds; the proposal for extended emergency powers for the police; new uncertainty about the parameters of "unlawful disclosure" of state secrets; and other proposals perceived as potentially limiting freedom of speech and press. Opponents of the proposed legislation conducted a series of protests, including a July 1 demonstration in which approximately 500,000 persons participated to protest the Government's handling of the proposed legislation.

In response to the protests, the Government indefinitely postponed a second reading of the bill in July. In September, the Government withdrew the bill from the legislative process. At year's end, no timetable had been announced for reintroducing a draft bill to the Legislative Council.

In March, a political activist who burned the national flag during a 2002 demonstration was given a suspended sentence of 3 months in jail, in the SAR's first prosecution of a citizen for flag burning. Other persons have been convicted since the handover for altering or defacing flags, but no jail terms or suspended sentences were imposed in those cases.

Individuals may criticize the Government publicly or privately without reprisal, and many persons spoke freely to the media and used the media to voice their views. Political debate was vigorous, and numerous viewpoints, including stories and opinions critical of the SAR and PRC Governments and statements by leading Chinese dissidents and pro-independence Taiwan activists, were carried by the mass media, in public forums, and by political groups. The Secretary for Constitutional Affairs, however, did comment on a visit by two legislators to Taiwan to participate in a pro-Taiwan independence seminar, suggesting that legislators' overseas remarks should reflect the SAR's mainstream opinion.

During the year, newspapers published a wide variety of opinions, including opinions on Taiwan, Tibet, PRC leadership dynamics, Communist Party corruption, and human rights. There were some 15 daily newspapers, all privately owned in name although 4 were supported financially--and guided editorially--by the PRC (Wen Wei Po, Ta Kung Pao, the Hong Kong Commercial Daily, and the China Daily). The non-PRC-owned

newspapers, hundreds of periodicals, four commercial television stations (broadcast and cable) and two commercial radio stations functioned with virtually no government control. One commercial radio station renewed its license without incident shortly after receiving an official warning from the Broadcast Authority regarding the content of one of its programs, which listeners perceived to have gone too far in insulting government officials on their handling of the SARS crisis. The station did not appeal the warning. International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards for Hong Kong.

China still requires some journalists to apply for journalist visas to make reporting trips to the mainland, but in 2002 the PRC Government somewhat eased those requirements, announcing that it would simplify visa application procedures and drop the requirement of a host organization for foreign journalists from Hong Kong, provided that their organizations have offices in Beijing, Shanghai, or Guangdong Province. All local journalists from Hong Kong can cover mainland stories, but must register with the Hong Kong Macau Affairs Office. Several Hong Kong publications were banned on the mainland, and the Next Group, a pro-democracy, tabloid-style, mass-market media group, was blocked from registering its reporters for mainland reporting. In August, a Radio Free Asia reporter was refused a journalism visa to cover multi-lateral talks in Beijing.

Despite regular coverage of sensitive subjects in print and in the broadcast media, professional journalist groups and NGOs asserted, often in the media, that media self-censorship continued. The Hong Kong Journalists Association (HKJA), for example, commented in a May report that self-censorship was a problem at Metro Finance radio, where an assignment editor was fired in 2002 after being ordered to tone down reports on the Chief Executive, the Falun Gong, pro-democracy activists, and the businesses of the station's owner, tycoon Li Ka-shing. The station's management said the dismissal was prompted by financial reasons rather than editorial policy. The HKJA reported that it was unable to determine whether self-censorship was a factor in the dismissal, though it could not be ruled out.

The government-owned Radio Television Hong Kong (RTHK) continued to enjoy the editorial independence granted to it in its framework agreement between the Government and the station's Director of Broadcasting. Local pro-PRC figures have called for the station to be more supportive of the PRC and Hong Kong Governments and for RTHK to conform to PRC political usage, for example by not referring to Taiwan leader Chen Shui-bian as "president" on the grounds that Taiwan is not a country.

There were no restrictions on the use of the Internet.

The Falun Gong was able to print flyers and other small materials in Hong Kong, but most of its publishing took place outside the SAR. One bookstore, owned by a practitioner, carried Falun Gong books.

The Basic Law provides for academic freedom, and the Government generally respected that freedom in practice. There was independent research, a wide range of opinions, and lively debate on campuses.

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

The Basic Law provides for freedom of assembly and the Government generally respected this right in practice. The Government routinely issued the required permits for public meetings and demonstrations.

Under the law, demonstration organizers must notify the police of their intention to demonstrate 1 week in advance (shorter notice is accepted when the Commissioner of Police is satisfied that earlier notice could not have been given) for a march involving more than 30 persons and for an assembly of more than 50 persons. The police must explicitly object within 48 hours; no reply indicates no objection. The post-handover provision in the Public Order Ordinance that empowered police to object to demonstrations on national security grounds never has been invoked. Appeals of a denial to demonstrate may be made to a statutory appeals board comprising members from different sectors of society. Both the board's proceedings and the police's exercise of power are subject to judicial review.

Since the handover, there have been over 13,600 public meetings and public processions. Approximately half of these demonstrations required notification. Since the handover, the police have objected to 21 demonstrations, 9 of which went ahead after the demonstration organizers altered their plans. In the first 6 months of the year, police objected to 1 demonstration, which was subsequently held after organizers changed their routes. Demonstrators have complained that demonstrations often were limited to "designated areas" where they received little public attention and that police sometimes outnumber demonstrators.

On July 1, approximately 500,000 people marched through central Hong Kong to protest the Government's proposed Article 23 national security legislation. On July 9, 50,000 people took part in a rally outside the Legislative Assembly to protest the national security legislation and demand universal suffrage, and on July 13, 20,000 people rallied to demand universal suffrage and greater democracy. These events were legally sanctioned and peaceful.

In addition to holding assemblies and marches on Hong Kong-related issues, groups continued to be free to demonstrate on issues of sensitivity in mainland China. On June 4, approximately 50,000 people attended the annual candlelight vigil to commemorate the anniversary of the 1989 massacre in Beijing's Tiananmen Square.

Falun Gong practitioners regularly conducted public protests against the crackdown on fellow practitioners in the PRC, holding daily protests in front of the Hong Kong offices of the Central Government. In September, an appeal hearing concluded for a group of Falun Gong practitioners who had been fined for obstruction in 2002 for refusing to remain in a designated demonstration area. At year's end, the group was awaiting the judges ruling. In February, Falun Gong practitioners were able to hold an annual international conference in the SAR.

The Basic Law provides for freedom of association, and the Government generally respected this right in practice. Since the handover, no applications for registration have been denied. From January through August, the Societies Licensing Office of the police registered 1,119 new organizations for a total of 8,402 registered since the 1997 handover.

Pro-Taiwan groups have expressed concern that the Societies Ordinance could be used to restrict political activity. The Societies Ordinance requires that new societies must apply for registration within 1 month of establishment. The Government may refuse registration if it believes that the refusal is necessary in the interests of national security, public safety, public order, or the protection of the rights and freedom of others. The Government also may refuse to register a political body that receives support from a foreign political organization or a Taiwan-based political organization.

#### c. Freedom of Religion

The Basic Law provides for freedom of religion, the Bill of Rights Ordinance prohibits religious discrimination, and the Government generally respected these provisions in practice.

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

Religious groups are not required to register with the Government and are exempted specifically from the Societies Ordinance, which requires the registration of nongovernmental organizations. Some groups, such as the Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as "qigong" groups), that do not consider themselves religions, have registered under the Societies Ordinance. Catholics freely and openly recognize the Pope as the head of the Catholic Church. The Vatican maintains a Diocese overseen by a local Bishop.

According to the Basic Law, the PRC Government has no authority over religious practices in the SAR. PRC representatives in the SAR and the two PRC-owned newspapers have criticized some religious and other spiritual groups and individuals. Local religious leaders also have noted that the Basic Law provision that calls for ties between local religious organizations and their mainland counterparts to be based on "nonsubordination, noninterference, and mutual respect" could be used to limit such ties. Similarly, the Catholic Bishop of Hong Kong continued to express concern that religious groups could be negatively affected by Article 23 laws.

During the year, Falun Gong, a spiritual movement that has explicitly stated that it is "not a religion," practiced freely and held regular public demonstrations against PRC policies. However, 80 overseas Falun Gong practitioners, mostly from Taiwan, were refused entry into Hong Kong to attend a conference in February (see Section 2.d.). Four of those practitioners filed a judicial review against the Immigration Department's decision to refuse entry. In May, the judge accepted their application to proceed with the case. At year's end, the group awaited further instruction from the court. In June 2002, over 90 foreign practitioners were also denied entry upon arrival at the Hong Kong international airport (see Section 2.d.). The number of practitioners in Hong Kong has reportedly dropped from approximately 1,000 to approximately 500 since the PRC government began its mainland crackdown in mid-1999.

Other qigong groups, including Xiang Gong and Yan Xin Qigong, also were registered as societies and practiced freely.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

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

The Basic Law provides residents freedom of movement within Hong Kong, freedom of emigration, and freedom to enter and leave the territory, and the Government generally respected these rights in practice, with some prominent exceptions. Most residents obtained travel documents freely and easily from the SAR

Government. There were limits on travel to the mainland imposed by the PRC Government.

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

Since the handover, several prominent overseas dissidents have been denied entry or visas to enter Hong Kong. In February, a group of 80 foreign Falun Gong practitioners were refused entry. In April 2002, exiled mainland dissident Harry Wu, who held foreign citizenship, was refused entry to Hong Kong, on the grounds of protecting Hong Kong's security. The Government asserted that the denial of Wu's entry was in accordance with the law. In June 2002, Wu was again denied a visa to come to Hong Kong, where he had been invited to address a seminar. Also in June 2002, over 90 foreign Falun Gong adherents who intended to stage protests during the fifth anniversary of the handover celebration were denied entry upon arrival at the Hong Kong international airport.

In August 2002, the Court of Final Appeals upheld the right of nonpermanent residents to return after leaving, a right that in practice had been treated as requiring case-by-case consideration.

Chinese authorities did not permit a number of Hong Kong human rights activists and prodemocracy legislators to visit the mainland.

The 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol does not extend to Hong Kong, and the SAR eliminated its temporary protection policy (extended only to Vietnamese) in 1998. On a case-by-case basis, the Director of Immigration has discretion to grant refugee status or asylum in cases of exceptional humanitarian or compassionate need, but the Immigration Ordinance does not provide foreigners any right to have their asylum claim recognized. The general practice is to refer refugee and asylum claimants to a lawyer or to the office of the U.N. High Commissioner for Refugees (UNHCR). Those granted refugee status, as well as those awaiting UNHCR assessment of their status, receive a subsistence allowance from the UNHCR, but are not allowed to seek employment or enroll their children in local schools. The UNHCR works with potential host country representatives in Hong Kong to resettle those few persons designated as refugees. Government policy is to repatriate all illegal immigrants, including those that arrive from the mainland, as promptly as possible. During the year, a total of 4,052 illegal PRC immigrants were repatriated to the mainland.

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

Residents' right to change their government is limited by the Basic Law, which provides for the selection of the Chief Executive by an 800-person selection committee (composed of individuals who are either directly elected, indirectly elected, or appointed), the direct election of only 26 of 60 of Legislative Council members (to become 30 of 60 in legislative elections in 2004), and the inclusion of appointed members to the elected district councils. The approval of the Chief Executive, two-thirds of the legislature, and two-thirds of Hong Kong's National People's Congress delegates is required to place an amendment to the Basic Law originating in Hong Kong on the agenda of China's National People's Congress. The National People's Congress has the sole power to amend the Basic Law. Procedures for amendment or interpretations that originate in the mainland are unclear.

The Government is executive-led, with a two-tiered legislative system consisting of the Legislative Council and 18 district councils, and is staffed by a professional and independent civil service. The Basic Law provides for elections for Chief Executive in 2002 and 2007 by a selection committee of 800 local residents. The selection committee was made up of the 60 members of the Legislative Council, the 36 Hong Kong delegates to the National People's Congress, 41 representatives of Hong Kong members of the Chinese People's Political Consultative Conference, 40 representatives from religious groups, and 623 persons elected by the same approximately 180,000 voters (some representing organizations, others voting as individuals) who choose the functional constituency representatives of the Legislative Council. In 2002, C.H. Tung, unopposed, won his second 5-year term.

During the year, many citizens pressed the Government to enact procedural reforms needed to implement universal suffrage in the election of the Chief Executive in 2007 and Legco members in 2008. In response, the Government announced that it would provide a timetable for public consultations by the end of the year. The Government's plan was to commence consultations early in 2004 and 2005 and enact necessary legislation in 2006. However, following consultations with the PRC Government, a timetable for public consultations was not announced at year's end. The SAR Government did begin undertaking limited public consultations in late December through meetings with interested groups, public statements, and the creation of a web site for public input.

The Basic Law permits amendment of the Chief Executive selection process by a two-thirds majority of the Legislative Council, with the consent of the Chief Executive and the National People's Congress Standing Committee. Article 45 of the Basic Law states that "the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with

democratic procedures." Similarly, Article 68 of the Basic Law states that the "ultimate aim is the election of all the members of the Legislative Council by universal suffrage."

The members of the Legislative Council were elected in 2000 to 4-year terms; 24 members were elected directly from geographic districts through universal suffrage, 30 from functional (occupational) constituencies, and 6 by votes of the 800-person selection committee. Candidates who consider themselves pro-democracy advocates won 17 of the 24 seats elected on a geographic basis (including 1 in a December 2000 by-election) and 22 seats overall. In both the 1998 and 2000 Legislative Council elections, the functional constituencies were drawn more narrowly than the nine broad functional constituencies of the 1995 Legislative Council, reducing the total number of potential voters in functional constituencies from 1.15 million in 1995 to 180,000 in 1998.

The ability of the legislature to influence policy is limited substantially by Basic Law provisions that require separate majorities among members elected from geographical and functional constituencies in order to pass a bill introduced by an individual member. Another Basic Law provision prohibits the Legislative Council from putting forward bills that affect public expenditure, political structure, or government operations. The Chief Executive's written consent is required before bills affecting government policy may be introduced. The Government has adopted a very broad definition of "government policy" in order to block private member bills, and the President of the Legislative Council has upheld the Government's position. However, the Legislative Council's degree of popular representation and outspokenness gives it significant influence over the Government's policy positions.

The Executive Council (Exco) functions as the Chief Executive's cabinet. Exco includes 11 political appointees who run the 11 policy bureaus, and the Chief Secretary, Financial Secretary, and Justice Secretary, who are also political appointees. These 14 members are chosen by the Chief Executive and approved by the PRC Government. Exco also includes members of two political parties, a labor leader, and two other private citizens, also appointed by the Chief Executive. In July, the Liberal Party member of Exco resigned due to differences over Article 23 legislation. A different Liberal Party representative joined Exco in September.

In November, Hong Kong held its second post-handover District Council election, with a record turnout of over one million voters. Pro-democracy candidates made major gains, while the pro-Beijing Democratic Alliance for the Betterment of Hong Kong (DAB), Hong Kong's largest political party, suffered significant losses, leading to the DAB chairman's resignation. Following the election, there were increased calls for the Chief Executive not to exercise his authority to appoint additional District Councilors (up to 102 of 529), as has been done in the past. Nevertheless, the Chief Executive exercised his authority by appointing 102 District Councilors, the maximum number allowed under the District Councils Ordinance. According to the Ordinance, the District Councils are responsible for advising the Government on matters affecting: (1) the well-being of district residents; (2) the provision and use of public facilities; and (3) the use of public funds allocated for local public works and community activities.

In February, a village elections law was passed that requires the election of two village heads. Under this law, one village head represents indigenous residents (residents who are members of long-term local families) and deals with traditional affairs such as burial grounds, while the other leader handles general affairs. In July and August, after Government efforts to calm indigenous residents' resentments of this law's inclusion of non-indigenous candidates, 72 percent of registered rural voters turned out for a series of peaceful village elections.

Hong Kong sends 36 delegates to China's National People's Congress (NPC). In 2002, Hong Kong's NPC delegates were elected to a 5-year term by an NPC-appointed committee of 955 residents. Politicians and human rights activists have criticized the election process as undemocratic and lacking transparency.

The percentage of women in government and politics did not correspond to their percentage of the population, although larger numbers were seeking public office than ever before. Women held 11 of the 60 Legislative Council seats, and made up between 17 and 23 percent of membership in the major political parties. The President of the Legislative Council is a woman, as are the heads of several government departments. More than one-third of civil servants are women, and 2 of the 15 most senior Government positions were held by women. The Equal Opportunities Commission noted that women were a minority in government advisory bodies.

Minorities were also represented in senior civil service positions.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. These organizations had unrestricted contacts with the local community and with groups overseas. Government officials were generally

receptive to, and respectful of, their views. Prominent human rights activists critical of mainland China also operated freely and maintained permanent resident status in Hong Kong, but overseas dissidents sometimes had difficulty gaining entry to the SAR. In addition, the U.S. Commission on International Religious Freedom postponed a planned visit to Hong Kong and China in August after the PRC Government told the Commission that the timing of the trip was too sensitive for the delegation to travel to Hong Kong. In December, the Commission postponed another trip to Hong Kong and China after the PRC Government insisted that the Commission not hold official meetings in Hong Kong.

Under the Basic Law, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights apply to Hong Kong. The PRC Government transmits Hong Kong's reports, mandated under these covenants, without editing, to the U.N. The SAR Government and several domestic NGOs have testified before several U.N. human rights committees, including the United Nations Human Rights Commission in Geneva. The hearings, including concerns of the Commission, have received widespread and balanced press coverage.

The Office of the Ombudsman has wide powers to investigate and report on grievances from members of the public as a result of administrative actions of the executive branch and other designated public bodies. The Ombudsman may publish investigation reports in which the identity of the complainant has been protected. In addition to responding to public complaints, the Ombudsman may initiate investigations. The Ombudsman may report to the Chief Executive if recommendations to the organizations under his jurisdiction have not been acted upon or if there are serious violations. The Chief Executive is bound by law to present such reports to the legislature. The Ombudsman (Amendment) Ordinance, passed in 2001, helped strengthen the independence of the Ombudsman by de-linking the office from government systems and processes. It empowered the office to set terms and conditions of appointment for staff and to have full powers to conduct its own financial and administrative matters.

The Ombudsman does not have oversight authority over the police, the Independent Commission Against Corruption, or the Office of the Privacy Commissioner for Personal Data, although it may investigate complaints of noncompliance with the code on access to information by government departments, including the police and the Independent Commission Against Corruption. With regard to election-related complaints, the Ombudsman only is empowered to investigate complaints made against the Registration and Electoral Office, not those made against the Electoral Affairs Commission.

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

The Basic Law provides that all Hong Kong residents are equal before the law. The Bill of Rights Ordinance, which provides for the incorporation into law of the International Covenant on Civil and Political Rights as applied to Hong Kong, entitles residents to the civil and political rights recognized therein "without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." However, the ordinance binds only the Government, public authorities, and persons acting on their behalf; it does not bind private persons or entities. Three pieces of anti-discrimination legislation--the Sex Discrimination Ordinance, the Disability Discrimination Ordinance, and the Family Status Discrimination Ordinance--have made it illegal for any person or entity (public or private) to discriminate on the grounds of sex, marital status, pregnancy, disability, or family status, and prohibits behavior such as sexual harassment, harassment or vilification on the grounds of disability, and discriminatory advertising. Persons with HIV/AIDS are protected from discrimination under the Disability Discrimination Ordinance. Such persons can take legal action on their own or seek assistance from the Equal Opportunity Commission (EOC) through the formal complaint process.

The EOC was established in 1996 to work toward the elimination of discrimination and to promote equality of opportunity with specific reference to gender, disability, and family status. In August, the Government chose a new chairperson for the EOC, leading some observers to assert that the Government was dissatisfied with the former chairperson's willingness to challenge the Government for its handling of some discrimination issues. In November, the new Chairperson resigned amidst allegations of mishandling a personnel issue. In December, the government announced a new, interim Chairperson, to serve a 1-year, provisional term.

At year's end, the Government was in the process of drafting legislation prohibiting racial discrimination. Press reports during the year continued to identify examples of strong societal prejudice against minority groups and newly arrived mainland Chinese migrants.

During the year, the EOC received 1,032 total complaints for investigation and conciliation. The Commission concluded 923 cases, which included cases from previous years. Of these, 485 cases were discontinued for various reasons, including withdrawal by the complainant, agreement reached before an investigation was completed, and a lack of substance. Of the remaining concluded cases, 233 cases were successfully conciliated. Legal assistance was available for unsuccessful complainants.

Women

Violence against women remained a problem, particularly among new immigrants from the mainland. The Domestic Violence Ordinance allows a woman to seek a 3-month injunction, extendable to 6 months, against her husband. Domestic violence also may be prosecuted as common assault. The Government enforced the law and prosecuted violators, but sentences were generally lenient, consisting only of injunctions or restraining orders. During the first half of the year, there were 1,716 cases of domestic violence reported to the Social Welfare Department, which received reports of domestic violence from the police as well as from social workers, the Health Department, and volunteer organizations.

Cultural factors and inadequate information about available assistance and resources resulted in many cases of spousal abuse going unreported. In 2001, the Government established a Women's Commission to address women's concerns in a comprehensive and systematic manner. During the year, the Government continued to fund programs such as family life education counseling, a hotline service, temporary housing, legal aid, and child protective services. It also initiated public education and media programs to promote public awareness and encourage early seeking of professional assistance.

There were 70 cases of rape reported to the police during the year and 95 in 2002. Underreporting was a serious problem. The 2002 passage of the Statute Law (Miscellaneous Provisions) Bill made marital rape a crime. In July, the legislature passed an amendment to the Crimes Ordinance expressly clarifying that the term "unlawful sexual intercourse" can be applied both outside and inside the bounds of marriage. Indecent assault cases reported to the police totaled 656 in the first 8 months of the year.

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

The Sex Discrimination Ordinance prohibits sexual harassment of women seeking employment or already working in an organization. The Equal Opportunities Commission reported 130 sexual harassment complaints during the year, with 79 such complaints reported in 2002. A joint Government and NGO survey conducted in 2000 suggested that sexual harassment was seriously underreported.

Women faced discrimination in employment, salary, welfare, inheritance, and promotion. In August, a Government survey revealed that men earned an average of 26 percent more than women; the pay gap was only 20 percent in 2001. These figures excluded the salaries of foreign domestic workers. The press carried occasional stories of women alleging discrimination in the workplace.

Women entered professional fields, including sciences and engineering, law, teaching, accounting, social sciences, health, and medicine, in growing numbers. In 2001, the ratio of male to female professionals employed in these fields was 130,900 to 63,700; the ratio in 2002 was 126,700 to 67,600; the ratio in the third quarter of 2003 was 131,400 to 65,500. Female judicial officers and judges made up approximately 20 percent of the judiciary. In the Legislative Council, women held 11 of the 60 seats. Women held 20 percent of the most senior government positions and 24 percent of the senior policy level positions in the civil service. Women were disproportionately represented in the lower echelons of the work force.

The law treats men and women equally in inheritance matters, although women still faced discrimination based on traditional practices, such as in the inheritance of homes in rural areas of the New Territories.

During the year, the Women's Commission, which was established in 2001, introduced a gender mainstreaming analytical tool to facilitate gender sensitive policy analysis, published a booklet on empowerment practices, cultivated female candidates for government advisory and statutory bodies, launched a capacity building program, ran TV and radio campaigns, and established partnerships with NGOs to advance women's interests.

During the year, the Government worked to finalize Hong Kong's second report under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to the U.N.

#### Children

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

Subsidized, quality medical care is available to all children who are residents.

In July, legislation came into effect that raised the age of criminal responsibility for children from 7 to 10 years. During the year, there were 148 youths under the age of 16 who were incarcerated: 37 in prison, 13 in training centers, 51 in detention centers, 44 in rehabilitation centers, and 3 in drug addiction treatment centers.

Statistics on the problems of child abuse and exploitation were limited. During the year, there were 1,028 child abuse cases reported to the police: 417 involved physical abuse and 611 involved sexual abuse. The Government reported 1,044 cases in 2002.

Effective in December, the Prevention of Child Pornography Ordinance criminalizes the making, production, distribution, publication, advertising, and possession of child pornography. It also prohibits the procurement of children for making pornography, extends the application of certain sexual offense provisions to acts committed against children outside of Hong Kong, and prohibits any arrangement or advertising relating to commission of those acts.

The Government provided parent education programs in all 50 of the Department of Health's Maternal and Child Health Centers and has revamped its child health and development program to include parenting skills believed to be important in preventing child abuse. The Social Welfare Department also commissioned research on domestic violence, including child abuse. The police maintained a child abuse investigation unit to improve the treatment of victims, and a witness support program helped child witnesses in need. A Child Care Center Law helped to prevent unsuitable persons from providing childcare services and facilitated the formation of mutual help childcare groups. There are substantial legal penalties for mistreatment or neglect of minors.

#### Persons with Disabilities

Discrimination against the physically and mentally disabled persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance called for improved building access and sanctions against those who discriminate, and the amended Buildings Ordinance updated design requirements. However, despite inspections and occasional closure of noncompliant businesses, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities. Advocates complained that limited access for persons with disabilities at polling stations made voting difficult.

The Government offered an integrated work program in sheltered workshops and provided vocational assessment and training. No comprehensive statistics were available on the number of persons with disabilities in the work force, but the last government survey conducted in 2000 estimated that there were approximately 269,500 persons with one or more disabilities, including 225,600 persons with physical disabilities and 52,700 with mental disabilities. However, a consortium of organizations representing persons with disabilities reported in 2002 that approximately 700,000 residents were disabled, and about half were able to work. According to government statistics, of the 269,500 persons with disabilities, 52,500 were employed and 59,700 were considered "economically active," including small business owners and street vendors. As of October, there were 3,398 persons with disabilities employed as civil servants in a total civil service work force of 170,605 (approximately 2 percent of all civil servants). During the first 8 months of the year, the Labor Department's Selective Placement Division found jobs for 1,612 of 3,065 disabled job seekers. Approximately 9,860 students in a school population of 850,000 (1.16 percent) were disabled. Of these, 3,234 were in mainstream schools where they received special education services.

In 2001, the U.N. Committee on Economic, Social and Cultural Rights (UNCESCR) recommended that the Government undertake a comprehensive review of mental health policy and adopt effective measures to ensure that persons with mental illness enjoy the right to adequate and affordable health care. The Committee also noted its concern over the Government's "apparent lack of initiative" to undertake public education to combat discrimination against those with mental disabilities. During the year, the EOC continued to respond by undertaking a variety of activities to address discrimination against persons with disabilities, including sponsoring youth education programs, distributing guidelines and resources for employers, carrying out media campaigns, and co-sponsoring seminars and research.

#### National/Racial/Ethnic Minorities

Human rights groups, legislators, the UNCESCR, and the UNCERD continued to call for laws specifically targeting racial discrimination in the private sector. At year's end, the Government was drafting anti-racial discrimination legislation.

The Government's non-legally binding "Code of Practice for Employers," put into place in 2001 and designed to prevent discrimination, states that race, among other factors, should not be considered when hiring employees. Since its establishment in July 2002, the Government's Race Relations Unit has funded numerous projects promoting racial harmony; published guidebooks for migrant workers; provided newspapers and periodicals in minority languages, such as Bahasa Indonesia, Nepalese, Tagalog, and Vietnamese;

established a hotline for enquiries and complaints; provided education kits for teachers; and produced posters, pamphlets, and souvenirs promoting racial harmony.

Minorities, who make up approximately 5.1 percent of the population, were well represented in the civil service and many professions. There were allegations of racial discrimination in such areas as private sector employment, admission to public restaurants, placement in public schools, treatment in public hospitals, apartment rentals, and acceptance to institutions of higher education. Foreign domestic workers, most of whom are from the Philippines and Indonesia, were particularly vulnerable to discrimination. An Indonesian Migrant Workers Union was established in 2000 to unite Indonesian domestic helpers throughout Asia to protect members from abuse and exploitation. The organization served the approximately 76,000 Indonesian domestic helpers who work in the SAR. Similar organizations worked for the interests of Philippine domestic helpers, of whom there were approximately 129,000.

## Section 6 Worker Rights

### a. The Right of Association

The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must be registered under the Trade Unions Ordinance. The basic precondition for registration is a minimum membership of seven persons. The Trade Unions Ordinance does not restrict union membership to a single trade, industry, or occupation. The Government did not discourage or impede the formation of unions. Trade unions were independent of political parties and the Government.

During the year, 29 new unions were registered, while 6 were deregistered; there were 689 registered trade unions. At the end of 2002, over 22 percent of the 3,054,400 salaried employees and wage earners belonged to a labor organization.

The Employment Ordinance includes provisions that protect against anti-union discrimination. Violation of the anti-union discrimination provisions is a criminal offense with a maximum fine of \$12,800 (HK\$100,000). Employees who allege such discrimination have the right to have their cases heard by the Labor Relations Tribunal. The Tribunal may order reinstatement of the employee, subject to mutual consent of the employer and employee. The Tribunal may award statutory entitlements (severance pay, etc.) and compensation. The maximum amount of compensation is \$19,230 (HK\$150,000). Some labor activists have complained in the past that the Labor Tribunals tended to push conciliation rather than issue orders.

The Basic Law commits the SAR to 41 International Labor Organization (ILO) conventions, and the Government has amended labor legislation and taken administrative measures to comply.

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

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

In 1997, the pre-handover Legislative Council passed three laws that greatly expanded the collective bargaining powers of workers, protected them from summary dismissal for union activity, and permitted union activity on company premises and time. The new ordinances would have enabled full implementation of ILO Conventions 87, 98, and 154. However, in 1997, after consultation with the Labor Advisory Board, the Provisional Legislature repealed the Employee's Right to Representation, Consultation, and Collective Bargaining Ordinance and the Employment (Amendment) Ordinance, and amended the Trade Union (Amendment) Ordinance. The repeals removed the new legislation's statutory protection against summary dismissal for union activity; the Government asserted that existing law already offered adequate protection against unfair dismissal arising from anti-union discrimination. In 2001, the U.N. Committee on Economic, Social and Cultural Rights expressed concern over the absence of protection against unfair dismissal.

The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance removed the legal stipulation of trade unions' right to engage employers in collective bargaining. The ordinance bans the use of union funds for political purposes, requires the Chief Executive's approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees. In a few trades such as tailoring and carpentry, wage rates were determined collectively in accordance with established trade practices and customs rather than a statutory mechanism, but collective bargaining was not practiced widely. Unions were not powerful enough to force management to engage in collective bargaining. The Government did not engage in collective bargaining with civil servants' unions but merely "consulted" with them.

The Workplace Consultation Promotion Unit in the Labor Department facilitated communication, consultation,

and voluntary negotiation between employers and employees. Tripartite committees for each of nine sectors of the economy included representatives from trade unions, employers, and the Labor Department.

Work stoppages and strikes are permitted; however, there are some restrictions on this right for civil servants. Although there was no legislative prohibition of strikes, in practice, most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal.

There was 1 strike involving 150 working days lost (300 employees struck for a half day) during the year.

There were no export processing zones.

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

The law prohibits forced or bonded labor. The law does not specifically prohibit forced or bonded labor by children. There were no reports that such practices occurred.

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

The Employment of Children Regulations prohibit employment of children under the age of 15 in any industrial establishment. Children 13 and 14 years of age may be employed in certain non-industrial establishments, subject to conditions aimed at ensuring a minimum of 9 years' education and protecting their safety, health, and welfare. To enforce compliance with the regulations, the Labor Department conducted regular workplace inspections. In the first 8 months of the year, the Labor Department conducted 103,079 inspections and discovered 6 violations of the Employment of Children Regulations, resulting in the assessment of \$2,307 (HK\$18,000) in fines. Work hours for young persons 15 to 17 years of age in the manufacturing sector remain limited to 8 hours per day and 48 hours per week between 7 a.m. and 7 p.m. Overtime is prohibited for all persons under the age of 18 in industrial establishments. Employment in dangerous trades is prohibited for persons under 18 years of age.

#### e. Acceptable Conditions of Work

There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure existed, wage levels customarily are fixed by individual agreement between employer and employee and are determined by supply and demand. Some employers provided workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage generally provided a decent standard of living for a worker and family. Two-income households were the norm. In 2001, the UNCESCR expressed concern over the lack of adequate regulation on a statutory minimum wage, working hours, paid weekly rest, rest breaks, and compulsory overtime. As of year's end, the Government had not taken any steps to formulate such regulations.

The minimum wage for foreign domestic workers was approximately \$419 per month (HK\$3,270). The standard workweek was 48 hours, but many domestic workers worked far longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provide a decent standard of living. Foreign domestic workers are subject to deportation if dismissed. There were credible reports of such workers illegally being forced to accept less than the minimum wage and unacceptable living conditions. During the first 8 months of the year, there were two cases of foreign domestic workers successfully taking their employers to court for mistreatment. In both cases, the employers were convicted and fined.

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, as well as policy formulation and implementation.

The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Department conducted 52,848 inspections of workplaces and issued 1,102 summonses, resulting in a total of \$1,779,076 in fines (HK\$13,876,800). Worker safety and health has improved over the years, but serious problems remain, particularly in the construction industry. During the first 4 months of the year, there were 9,459 occupational injuries, of which 4,124 were classified as industrial accidents. There were six fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

## f. Trafficking in Persons

There is no law prohibiting trafficking in persons; however, there are various laws and ordinances that allowed law enforcement authorities to take action against traffickers. Hong Kong was a point of transit and destination for persons trafficked for sexual exploitation and forced labor. It was difficult for authorities to identify trafficking victims among the larger group of illegal immigrants.

Hong Kong was a transit point for some persons trafficked from China and Southeast Asian nations to third countries, despite active efforts by the SAR Government to stop such activities. The most common method used to attempt to smuggle persons through the SAR employed forged or illegally obtained travel documents to move through the airport. During the first 8 months of the year, authorities apprehended 2,101 persons with forged travel documents.

Some women have been lured to Hong Kong with false promises of legitimate employment and forced or coerced to work as prostitutes. A Hong Kong University preliminary study of trafficking of women to Hong Kong for the purposes of prostitution found reports of 39 such cases from 1990 to 2000. Large numbers of illegal immigrant women from the mainland engaged in prostitution with the reported assistance of organized criminal groups.

Prostitution is legal, but there are laws against some related activities that make prostitution illegal in certain circumstances (see Section 5, Women). The authorities sought to combat illegal prostitution by nonresidents through strict immigration controls and by arresting and prosecuting illegal prostitutes and their employers. In the first 8 months of the year, 6,296 nonresident women prostitutes and a much smaller number of their employers were arrested. Most of those arrested were deported rather than formally charged. The Crimes Ordinance stipulates that a person who controls another person for purposes of prostitution can, upon conviction and indictment, be imprisoned for 14 years. A person who knowingly lives wholly or in part on the earnings of prostitution of another can be sentenced to 10 years' imprisonment. During the year, 119 persons were convicted of these offenses, and in 2002, 56 people were convicted. The majority of those convicted were sentenced to immediate imprisonment.

Persons also were trafficked to the SAR for labor purposes, including domestic labor. There continued to be reports of foreign domestic workers, particularly from Indonesia and India, recruited abroad and brought to Hong Kong only to find that the terms of their employment were not what they had agreed to or were not in compliance with domestic worker labor laws. Some recruitment agencies allegedly have conspired with employers to pay the workers significantly less than the minimum wage, charge excessive fees, require excessively long working hours, and take workers' passports from them upon arrival.

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

Legal aid was available to those who chose to pursue legal proceedings against an employer, and immunity from prosecution was often made available to those who assisted in the investigation and prosecution of traffickers. An array of social services provided by the Social Welfare Department and local NGOs were available to victims of trafficking. The Government did not provide funding to foreign or domestic NGOs for services to victims. The Government's prevention efforts included providing pamphlets to workers about their rights; the pamphlets were widely distributed and were published in a wide range of languages.

## MACAU

Macau, a 13 square mile enclave on the south China coast, reverted from Portuguese to Chinese administration on December 20, 1999 (the handover). As a Special Administrative Region (SAR) of the People's Republic of China (PRC), Macau enjoys a high degree of autonomy except in defense and foreign affairs, and its citizens have basic freedoms and enjoy legally protected rights. The 1987 Sino-Portuguese Joint Declaration and the Basic Law (the SAR's mini-constitution promulgated by China's National People's Congress (NPC) in March 1993) specify that Macau is to continue to enjoy substantial autonomy, and that its economic system and way of life are to remain unchanged for the first 50 years under PRC sovereignty. The Government is led by a Chief Executive, chosen by a 200-member Selection Committee, which was in turn chosen by a Preparatory Committee composed of 60 Macau and 40 mainland representatives appointed by the NPC. In 2001, voters elected 10 of the legislature's 27 members in direct elections in geographical constituencies. Interest groups in functional constituencies elected 10 others, and the Chief Executive

appointed the remaining 7. There are limits on the types of bills that may be initiated by individual members of the legislature. After the handover, most of the laws in force continued to apply. The law provides for an independent judiciary, and the Government respected this provision in practice.

The civilian authorities maintained effective control of the police force. After peaking in 1999, serious organized crime-related violence has since been curbed. A People's Liberation Army (PLA) garrison of 800 soldiers played no role in internal security.

The market-based economy was fueled by textile and garment exports, along with tourism and gambling. The economy grew approximately 13.4 percent during the year. Per capita gross domestic product was approximately \$15,355. The population in 2002 was 441,600.

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

## RESPECT FOR HUMAN RIGHTS

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

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

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

There were no reports of suspicious deaths in custody. The Public Prosecutions Office's investigation of a 2002 death in custody was still pending at year's end.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, and the Government generally respected these provisions in practice. There were no reports of police brutality during the year. In 2002, two officers allegedly assaulted two Hong Kong journalists who sought to enter Macau to cover the visit of Li Peng, then-Chairman of the NPC. In July, the Public Security Police closed its investigation of the alleged incident, concluding that there was no substantial evidence of any violations.

Prison conditions met international standards. As of September, the prison population was 884 (including male and female inmates), almost two-thirds of whom were from the PRC. At year's end, Macau and the PRC had not reached an agreement on prisoner transfers. Female prisoners were housed separately from male prisoners; juveniles were housed separately from adults; and pretrial detainees were separated from convicted prisoners.

The Government permits prison visits by human rights monitors, but there were no such visits during the year.

#### Arbitrary Arrest, Detention, or Exile

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

The locally controlled Public Security Police was an effective, well-disciplined force. The Commission Against Corruption acted to preclude problems with corruption.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the Government generally respected this provision in practice. According to the Basic Law, the courts have the power of final adjudication over all cases that are within the autonomy of the SAR. The courts also may rule on matters that are "the responsibility of the Central People's Government or concern the relationship between the central authorities and the (Special Administrative) Region," but before making their final judgment (i.e., a judgment not subject to appeal), the court must seek an interpretation of the relevant provisions from the Standing Committee of the Chinese NPC. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions "shall follow the interpretation of the Standing Committee." The Standing Committee must consult the NPC's Committee for the Basic Law of the SAR before giving an interpretation of the law. This Committee is composed of 10 members, 5 from the SAR and 5 from the mainland. The Chief Executive, the President of the Legislative Assembly, and the President of the Court of Final Appeal nominate the SAR members.

Article 9 of the Basic Law provides for the use of Portuguese, in addition to Chinese, as an official language by the executive authorities, legislature, and judiciary. The need to translate laws and judgments from Portuguese, and a severe shortage of local bilingual lawyers and magistrates, has hampered development of the legal system. At year's end, 96 lawyers were registered with the Macau Lawyers Association. Of those who registered their language speaking ability with the Association, 9 spoke Mandarin, and 22 spoke Cantonese. The Association registered 30 trainee-lawyers. The Government instituted a rigorous postgraduate training program for magistrates who received legal training outside of the SAR. The judiciary was relatively inexperienced (the first law school opened in the early 1990s), and the lack of locally trained lawyers has been a serious impediment to the administration of justice.

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

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

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

The judiciary provides citizens with a fair and efficient judicial process, but the average waiting period between the filing of a civil case and its scheduled hearing was nearly 12 months. That time was reduced slightly during the year. Since 1991, all legislation has been issued simultaneously in Chinese and Portuguese. Pre-existing laws are required to be translated into Chinese, and those issued between 1976 and 1991 have been translated.

The Public Prosecutions Office (headed by a Public Prosecutor General) enjoys substantial autonomy from both the executive and the judiciary. The Basic Law stipulates that the Public Prosecutions Office's functions must be carried out without interference, and the law was respected.

There were no reports of political prisoners.

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

The law prohibits such actions, and the Government generally respected these prohibitions in practice. A judge's authorization is required for any official interference in these areas. Any evidence obtained by means of wrongful interference in private life, home, correspondence, or telecommunications, without the consent of the concerned person, may not be used in court.

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

#### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Local law also protects citizens' right to petition the Government and the legislature.

The print media included eight Chinese-language dailies, three Portuguese-language dailies, one Portuguese-language weekly, and six Chinese-language weeklies. There were three television networks. Macau Radio broadcast in both Portuguese and Chinese (Cantonese and Mandarin). Hong Kong and international newspapers were widely available. The dominant newspapers, mainly Chinese-language, were sympathetic to official Chinese positions in their editorial line, while some of the Portuguese-language press published articles critical of mainland policies, such as those regarding Tibet and Falun Gong. The Union for Democracy Development Macau (UDDM), a nongovernmental organization (NGO) headed by pro-democracy legislators, charged that the main papers did not give equal attention to liberal and pro-democracy voices. At least three leading daily newspapers and a leading Hong Kong daily newspaper sold in Macau provided extensive coverage of pro-democracy activities. The reversion to PRC sovereignty has produced no apparent restrictions of press freedom. The press regularly published articles critical of the government, with opinion columns often directly criticizing government officials.

Article 23 of the Basic Law obliges the SAR to enact legislation that would forbid any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, and links of the foregoing nature that are harmful to national security with foreign political organizations. In 2002, the Government announced that it was working on draft legislation for the Article 23 national security law that would undergo a period of public consultation and then be submitted to the Legislative Assembly. In November, the Chief Executive stated that his administration would not propose Article 23 legislation until the next chief executive term, which begins in 2006. The UDDM voiced concern that when enacted these laws and other provisions passed to implement Article 23 may restrict fundamental rights and freedoms.

Particular concern has been raised regarding the Penal Code's lack of specific sentences for such crimes. A legal vacuum was created when a Portuguese law dealing with crimes against state security became null and void after the handover.

There were no government-imposed limits on Internet access.

The Government did not restrict academic freedom.

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

The law provides for freedom of assembly, and the Government generally respected this right in practice. Under local law, individuals and groups intending to hold peaceful meetings or demonstrations in public places are required to notify the president of the relevant municipal council in writing at least 3 days, but no more than 2 weeks, in advance of the event. No prior authorization is necessary for the event to take place. Local law also provides criminal penalties for government officials who unlawfully impede or attempt to impede the right of assembly and for counter-demonstrators who interfere in meetings or demonstrations.

The law provides for freedom of association, and the Government generally respected this right in practice. The law neither provides for, nor prohibits establishment of, political parties. Under the Societies Ordinance, persons can establish "political organizations," of which a few existed, including the pro-democracy New Democratic Macau Society, headed by a legislator. Both civic associations and candidates' committees may present candidates in the elections by direct or indirect suffrage (see Section 3). Article 23 of the Basic Law obliges the Macau SAR to enact laws to prohibit foreign political organizations from establishing ties with domestic political organizations or bodies. At year's end, the Government had not enacted any legislation on Article 23 (see Section 2.a.).

Falun Gong practitioners were allowed to continue their exercises and demonstrations in public parks.

#### c. Freedom of Religion

The Basic Law provides for freedom of conscience and religious belief as well as freedom to preach and to conduct and participate in religious activities. The Freedom of Religion Ordinance provides for freedom of religion, privacy of religious belief, freedom of religious assembly, freedom to hold religious processions, and freedom of religious education. The SAR Government generally respected these rights in practice. There is no state religion.

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

Practitioners of Falun Gong (a spiritual movement that does not consider itself a religion) have not applied for

registration. The Identification Services Office has not issued any instructions regarding the Falun Gong, and senior SAR Government officials have reaffirmed that practitioners of Falun Gong may continue their legal activities without government interference (see Section 2.b.). According to Falun Gong practitioners, the police occasionally observed their exercises and checked their identification.

Religious bodies can apply to use electronic media to preach and may maintain and develop relations with religious groups abroad.

Missionaries are free to conduct missionary activities and were active in the SAR. In 2002, more than 30,000 children were enrolled in Catholic schools.

The Catholic Church recognizes the Pope as its head. In January, the head of the Macau Diocese received the Government's second-highest decoration for his contributions to social progress. In June, a new coadjutor Bishop, appointed by the Holy See, took over the Macau Diocese. Editorials in the local Catholic newspaper noted this as an example of the Government's independence and respect for religious freedom as provided for in the Basic Law.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

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

The law provides for these rights, and the Government generally respected them in practice. Some 110,000 residents hold Portuguese European Union passports, while an increasing number hold Macau SAR passports that allow visa-free entry to many countries, including EU member states. Most residents also hold special permits that allow travel to and from the mainland. There is a separate pass for travel to and from Hong Kong.

On October 17, the authorities reportedly barred at least two Hong Kong activists from entering the SAR during a visit by PRC Vice-President Zeng Qinghong. A government spokesman refused to confirm the incident but said that the SAR "has the right to deny entry of anyone suspected of having the intention to create trouble here."

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provides protection against refoulement and grants refugee status or asylum. There was one refugee case during the year; the Migration Department cooperated with the U.N. High Commissioner for Refugees in handling it.

In 2002, the SAR enacted the Internal Security Legal Framework, which allows the Government to refuse entry or expel any non-resident considered inadmissible or constituting a threat to internal security, or suspected of having a relationship with transnational crime or terrorism.

Between January and July, 319 illegal migrants were returned to the mainland, of whom 76 were male and 243 female. In that same period, 4,073 overstayers (1,060 males and 3,013 females) were returned to the mainland.

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

The ability of citizens to change their government is restricted. The Government is led by a Chief Executive, chosen by a 200-member Selection Committee, which was in turn chosen by a 100-member Preparatory Committee, composed of 60 Macau and 40 mainland representatives appointed by the NPC of the People's Republic of China. The 27-member Legislative Assembly elected in 2001 is composed of 10 members elected in direct elections; 10 indirectly elected by local community interests such as business, labor, professional, welfare, cultural, educational, and sports associations; and 7 appointed by the Chief Executive. Prior to the 2001 elections, the Legislative Assembly was composed of 8 members elected directly, 12 elected indirectly, and 7 that were appointed. Elections are held every 4 years and the number of legislators is to increase gradually in subsequent elections. In 2005, the number of directly elected seats is to be increased to 12 (with 10 elected indirectly and 7 appointed). After 2009, the rules on the Assembly's composition may be altered by a two-thirds majority of the total membership and with the approval of the Chief Executive, who has veto power. The Basic Law does not provide for universal suffrage or for direct election of either the legislature or the Chief Executive.

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

A 10-member Executive Council functions as an unofficial cabinet, approving all draft legislation before it is presented in the Legislative Assembly.

In 2002, a law transformed two provisional municipal councils into a new public body. Under the previous arrangement, a total of eight directly elected members sat on the two councils. The councils were responsible for culture, recreation, and public sanitation functions. Under the new system, the councils have been merged into a single public body, called the Institute for Civic and Municipal Affairs, with all of its members appointed by the Chief Executive. The Basic Law states, "municipal organizations are not organs of political power."

Five of the 27 Legislative Assembly members (3 directly elected, 1 indirectly elected, and 1 appointed), including the President of the Assembly, were women. Women held a number of senior positions throughout the Government. The Secretary for Justice and Administration on the Executive Council was a woman.

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

Domestic human rights groups functioned without government restriction, investigating and publishing their findings on human rights. Local human rights groups, such as the Macau Association for the Rights of Laborers, and the New Democratic Macau Association, continued to operate.

International human rights agreements that formerly were applicable to Macau were approved by the Sino-Portuguese Joint Liaison Group and continued to apply to the SAR. In addition, the International Covenant on Civil and Political Rights is subsumed in the Basic Law.

During the first 8 months of the year, the Commission Against Corruption received 732 complaints against public officials in a variety of agencies. The Commission opened 58 files, of which 53 were criminal cases and 5 were administrative grievances. The Commission transferred seven cases to the Public Prosecutions Office. A monitoring body established to review complaints of maladministration or abuse by the Commission received two complaints during the year.

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

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

#### Women

The Government enforces criminal statutes prohibiting domestic violence and prosecutes violators. Police and court statistics did not distinguish between spousal abuse and other assault cases. If hospital treatment was required, a medical social worker counseled the victims of abuse and informed them about social welfare services. Until their complaints were resolved, victims of domestic violence may be provided public housing, but no facilities were reserved expressly for them.

Private and religious groups sponsored programs for victims of domestic violence. The Government supported and helped to fund these organizations and programs. The Bureau for Family Action was created by the Government as a subordinate body of the Department of Family and Community of the Social Welfare Institute. The Bureau helped women who have been victims of domestic violence, providing not only a safe place for them and their children, but also advice regarding legal actions against the perpetrators. In 2002, a special family counseling service performed an average of 150 family services per month, including receiving phone calls and conducting interviews. Two government-supported religious programs also offered rehabilitation programs for women who have been victims of violence. During the year, 11 cases of spousal abuse were reported to the Social Welfare Institute. Between January and July, the Office for Security Coordination received 128 reports of offenses against the physical integrity of female spouses. From January to July, the Government received 10 cases of sexual crimes against minors (under 16 years old) and 1 case of ill treatment. The law on rape covers spousal rape. During the year, there were seven reported rapes.

Prostitution is legal, but procuring is not. Although there was no reliable data regarding the number of persons involved, trafficking in women, for the purposes of prostitution, occurred (see Section 6.f.).

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

Women have become more active and visible in business. A Government survey indicated that, as of September, women comprised 46.7 percent of the labor force. Equal opportunity legislation that is applicable to all public and private organizations mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. There was wage discrimination in some sectors, notably construction. The equal opportunity legislation may be enforced by civil suits, but no cases alleging discrimination have been brought to court.

#### Children

The Government is committed to protecting the rights and welfare of children. It does so by relying on the general framework of civil and political rights legislation to protect all citizens. For example, the Criminal Code provides for criminal punishment for sexual abuse of children and students, statutory rape, and procuring involving minors.

School attendance is compulsory for all children between ages 5 and 15 years. Basic education was provided in government-run schools and subsidized private schools, and covers the pre-primary year, primary education, and general secondary school education. The Education Department provided assistance to the families of those children that could not pay school fees. The children of illegal immigrants were excluded from the educational system. Experts believed only a few children are affected by this exclusion. The Government provided free medical care for all children. Child abuse and exploitation were not widespread problems. During the year, five cases of child abuse were reported to the Social Welfare Institute. Between January and July, 101 cases of offenses against the physical integrity of minors were reported, including 17 cases of family violence, to the Office for Security Coordination. From January to July, 4 cases of rape of minors and 3 cases of sexual abuse of minors were received.

#### Persons with Disabilities

There were no confirmed reports that persons with disabilities experienced discrimination in employment, education, or provision of state services. A 2001 census stated that there were 5,713 persons with disabilities in the SAR.

The Social Welfare Institute provided financial and rehabilitation assistance to persons with disabilities and helped to fund 5 residential facilities and 16 day centers providing services for the disabled. A few other special programs existed, aimed at helping persons with physical and mental disabilities gain better access to employment, education, and public facilities. Eleven NGOs providing services for persons with disabilities received regular assistance from the Social Welfare Institute and subsidies from other governmental departments. Fifteen schools had programs for persons with disabilities, providing special education programs for 801 students.

In 2002, a law was enacted mandating improved accessibility for persons with reduced mobility to public administration buildings, buildings open to the public, collective dwellings, and pavements. The Government's Social Security fund may grant subsidies for the elimination of architectural barriers to facilitate access by persons with a physical or behavioral disability.

#### National/Racial/Ethnic Minorities

Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise roughly 2 percent of the population) were respected. Although Portuguese officials no longer dominated the civil service, the government bureaucracy and the legal system placed a premium on knowledge of the Portuguese language, which was spoken by less than 2 percent of the population. The Chinese language has official status and the use of Chinese in the civil service grew.

#### Section 6 Worker Rights

##### a. The Right of Association

The Government neither impeded the formation of trade unions nor discriminated against union members. The Basic Law stipulates that international labor conventions that applied before the handover shall remain in force and are to be implemented through the laws of the SAR. The UDDM expressed concern that local law does not have explicit provisions against anti-union discrimination.

Nearly all of the private sector unions were part of the pro-China Federation of Trade Unions (FTU), and tended to stress the importance of stability and minimum disruption of the work force. The UDDM and some local journalists have claimed that the FTU was more interested in providing social and recreational services

than in addressing trade union issues such as wages, benefits, and working conditions. In 2002, there were six independent private sector unions and two independent public sector unions. All classes of workers have the right to join a union.

Unions may freely form federations and affiliate with international bodies.

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

The Government did not impede or discourage collective bargaining, but there is no specific statutory protection for this right since Portuguese laws that protected collective bargaining no longer apply. Market forces determined wages. Unions tended to resemble local traditional neighborhood associations, promoting social and cultural activities rather than issues relating to the workplace. Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant labor from China and the Philippines. Pro-China unions traditionally have not attempted to engage in collective bargaining.

There is no specific protection in local law from retribution should workers exercise their right to strike. The Government has argued that striking employees are protected from retaliation by labor law provisions that require an employer to have "justified cause" to dismiss an employee, and the Government enforced these provisions. Strikes, rallies, and demonstrations are not permitted in the vicinity of the Chief Executive's office, the Legislative Assembly, and other key government buildings. Though there was at least one protest, there were no work stoppages or strikes during the year.

In July, the Labor and Employment Bureau completed mediation in the resolution of a yearlong dispute between a casino company and a group of casino employees disgruntled over the terms of a new employment contract that came into effect when the casino company reorganized in 2002. The casino company agreed to pay the workers for unpaid holidays, leave, and outstanding allowances.

Workers who believe that they have been dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the High Commissioner against Corruption and Administrative Illegality, who also functions as an ombudsman.

There are no export processing zones.

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

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

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

The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an "exceptional basis." Some children reportedly worked in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions are applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted. The Labor Department Inspectorate did not conduct inspections specifically aimed at enforcing child labor laws, but it issued summonses when such violations were discovered in the course of other workplace inspections. No instances of child labor were reported during the year.

#### e. Acceptable Conditions of Work

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

Labor legislation provides for a 48-hour workweek, an 8-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every 7 days of work, worker representatives reported that workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers on request.

The Labor Department enforces occupational safety and health regulations, and failure to correct infractions can lead to prosecution. In 2002, the Labor Department inspectorate carried out 3,243 inspections and uncovered 3,356 violations carrying fines worth \$293,460 (2,289,000 Patacas). There were eight work-related death cases in 2002. Although the law includes a requirement that employers provide a safe working

environment, no explicit provisions protect employees' right to continued employment if they refuse to work under dangerous conditions.

Migrant workers, primarily from China, made up approximately 11.7 percent of the work force. These workers often worked for less than half of the wages paid to local residents performing the same job, lived in controlled dormitories, worked 10 to 12 hours per day, and owed large sums of money to a labor-importing company for the purchase of their jobs. They have no collective bargaining rights and no legal recourse in the case of unfair dismissal. Labor interests claimed that the high percentage of foreign labor eroded the bargaining power of local residents to improve working conditions and increase wages.

Due to high unemployment, the Government has reduced the amount of foreign non-resident labor to give job priority to local residents. In August, the Government ordered the expulsion of 23 illegal workers at a foreign company's casino construction site.

#### f. Trafficking in Persons

Trafficking in persons is a crime established and punished under Article 7 of the Law on Organized Crime. The penalty for the crime of trafficking in persons is 2 to 8 years' imprisonment. This penalty is increased by one-third (within minimum and maximum limits) if the victim is under the age of 18 years. If the victim is under 14 years old, the penalty is 5 to 15 years' imprisonment. In a case where the victim is raped by the trafficker, the two offenses are treated as different crimes.

Prostitution is not a crime, but living off the proceeds of prostitution is a crime. Prostitutes primarily were from Russia, mainland China, and Vietnam. While most were believed to be witting participants in the commercial sex industry, there were 15 cases of women who complained of being brought to Macau under false pretences, and 7 complaints of abuse, in 2002.

There were no government assistance programs in place for victims of trafficking. There were no local NGOs specifically dealing with the problem of trafficking; however, there were charitable organizations that provided assistance and shelter to women and children who were the victims of abuse.