

[Home](#)[Issues & Press](#)[Travel & Business](#)[Youth & Education](#)[About State Department](#)

Honduras

Country Reports on Human Rights Practices - [2005](#)

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Honduras is a constitutional democracy with a population of approximately seven million. In November national elections, considered by international and domestic observers to be generally free and fair, voters elected as president Jose Manuel Zelaya Rosales of the Liberal Party. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces, particularly the police, acted independently of government authority.

Government corruption, impunity for violators of the law, and gang violence exacerbated serious human rights problems in a number of areas. The following human rights problems were reported:

- extrajudicial killings by members of the police
- arbitrary and summary executions committed by vigilantes and former members of the security forces
- beatings and other abuse of detainees by security forces
- harsh prison conditions
- impunity for human rights violations
- failure of the authorities to provide due process of law
- lengthy pretrial detention
- lack of government funding, institutional weakness, and judicial corruption
- illegal searches
- erosion of press freedom
- violence and discrimination against women
- child prostitution
- child abuse
- trafficking in persons
- discrimination against indigenous people
- discrimination against persons based on sexual orientation
- lack of effective enforcement of labor laws
- child labor

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

While the government or its agents did not commit any politically motivated killings, members of the security forces were suspected of direct involvement in extrajudicial, arbitrary, and summary killings. As in previous years, nongovernmental organizations (NGOs) reported killings of youths and children by vigilante groups that also may have included members of the security forces (see section 5). No charges were filed nor convictions rendered against any persons in relation to such alleged killings. Between 1998 and October, the NGO Casa Alianza reported the killings of 2,879 children and young adults under the age of 23 and averred that government security forces were possibly involved in 9 of these killings.

Authorities sought or detained a number of police officials for their involvement in the killings of various individuals (see section 5).

By year's end there were no further developments, and none were expected, regarding the August 2004 appeals court ruling finding police officer Juan Carlos "Tiger" Bonilla and three other police officers innocent of a 2002 extrajudicial killing.

There were a number of deaths of prisoners caused by members of the security forces (see section 1.c.).

There were no further developments, and none were expected, in the investigation into the 2003 killing allegedly by two police officers of Eric David Yanez, a transgender person (see section 5).

On August 30, unknown assailants kidnapped and killed Jose Mario Garcia, the head of human resources at the Ministry of Public Works, and an unsuccessful candidate in the National Party's congressional primaries. An investigation was pending at year's end.

On September 11, unknown actors shot and killed Francisco Cruz Galeano, a General Confederation of Workers (CGT) union leader, in Ojo de Agua. It was not clear if Cruz's killing was connected to his union activity. An investigation was pending at year's end.

On October 2, two unknown actors shot and killed Rene Arturo Madrid Chinchilla, president of the Liberal Party Council for Tegucigalpa. By year's end police closed the case, calling it a robbery.

At year's end an investigation remained pending into the December 2004 killing, allegedly by gang members, of Christian Democratic congressional candidate Luis Armando Genawer Paguada.

There were no developments, and none were expected, in the 2003 killing by unknown assailants of environmental activist Carlos Arturo "Oscar" Reyes.

At year's end charges remained pending against Marco Tulio Vasquez Juarez for the 2003 killing of Jose Daniel Chinchilla Lara, the Vice President of La Central Cooperativas Cafetaleras de Honduras.

Arlin Daniel Escobar Moli remained under arrest with charges pending for the 2003 killing of priest Guillermo Antonio Salgado.

At year's end police had not arrested any suspects in connection with the 2001 killing of Nationalist Party congressional candidate Angel Pacheco. On September 16, however, Pacheco's body was exhumed for DNA analysis as part of the ongoing investigation. Due to decomposition of the body, no conclusive results were obtained. At year's end Pacheco's family and international groups continued to press the government to increase efforts to resolve the case.

In 2004 the government accepted responsibility for human rights abuses committed in the 1980s and promised to comply with Inter-American Court of Human Rights rulings regarding these killings. During the year a number of active and former military and police officials continued to face criminal charges for various human rights abuses, including the killings of 184 persons in the 1980s. Although most of the defendants were charged by the Public Ministry with illegal detention and murder, by year's end the Public Ministry remained unable to bring new cases against these individuals, including former members of the disbanded army Intelligence Battalion 3-16 (see section 1.b.).

During the year there were several exhumations of clandestine graves of persons believed to have been killed in the 1980s, but by year's end the remains had not been positively identified. Human rights organizations continued to seek information from various grassroots sources to locate other clandestine graves for future exhumations to advance prosecutions against alleged human rights violators. By law courts will not accept a case unless the body of the victim has been recovered and positively identified. An identified body allows families and human rights organizations to bring a case of suspected human rights abuse to court. Although investigations continued, by year's end no charges had been brought against any individuals as a result of these exhumations.

During the year there were no new developments, and none were expected, in the September 2004 acquittal of Jorge Adolfo Chavez Hernandez, formerly of Battalion 3-16, charged with the 1998 killing of environmental activist and councilperson Carlos Antonio Luna Lopez. At year's end cosuspect Jose Angel Rosa Rosa remained under arrest on unrelated charges, and suspects Italo Ivan Lemus and Marcos Morales remained at large. The case, brought by two NGOs in January 2004 before the Inter-American Court of Human Rights, remained pending.

There were no further developments in the Public Ministry's July 2004 appeal of the 2003 acquittal and release of Jaime Ramirez Raudales in relation to the 1988 political killings of social activists Miguel Angel Pavon Salazar and Moises Landaverde Recarte.

At year's end the appeals court had not issued a judgment in the case involving retired Major Manuel de Trejo Rosa, who remained under house arrest for the 1982 illegal detention and attempted killing of Nelson MacKay Echevarria and Miguel Francisco Carias Medina (see section 1.c.).

By year's end the Supreme Court of Justice had not rendered a decision in the case of Raymundo Alexander Hernandez Santos for the 1982 illegal detention and killing of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz.

In November Colonel Jaun Blas Salazar was detained by police for the murder and illegal house search of two individuals in the 1980's. The matter remained under further investigation at year's end.

During the year the Ministry of Public Security reported 49 police officers killed by unknown actors, noting that possibly 18 of these killings were committed by gangs. These killings included the July 6 torture, mutilation and killing under suspicious circumstances of two police officers, one of whom was pregnant.

Violent crime continued to fuel the growth of private unlicensed security guard services and vigilante groups that patrolled neighborhoods and municipalities allegedly to deter crime. Neighborhood watch groups called Citizen Security Councils (CSCs) reportedly took the law into their own hands. Human rights activists continued to assert publicly their belief that some CSCs, as well as private security companies with ties to former and current military or police officials, acted as vigilantes or death squads targeting youth and other elements of the population, with the tacit complicity of police.

The media reported that based on information from government sources, vigilante activities allegedly led to more than 970 killings in the last 7 years of known and suspected criminals, as well as gang members, street children, and youth not known to be involved in criminal activity (see section 5). Approximately 80 persons have been arrested over the past 7 years in connection with such killings, with 9 of those convicted by year's end.

At year's end the investigation remained pending regarding the March 2004 killing of Cesar Virgilio Pinot, allegedly by Agro Oriental security guards.

In December indigenous leader Feliciano Pineda was acquitted of the 2001 killing of Juan Reyes Gomez, but at year's end he remained in prison on other charges (see section 5).

During the year the Inter-American Court of Human Rights opened a formal case concerning the 2000 complaint filed by Casa Alianza against the government in connection with the illegal detention and killing by police of four youths in 1995, known as the "four cardinal points case." In its 2004 response to the court, the government accepted responsibility for the illegal detentions and killings of the youths but argued that there has never been a state policy to order the killings or to tolerate them.

b. Disappearance

There were no reports of politically motivated disappearances. As of August, according to the Ministry of Public Security, there had been seven kidnappings for ransom, compared with four kidnappings during 2004.

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

Although the law prohibits such practices, there were instances in which government officials employed them, including police beatings and other abuse of detainees.

On July 30, in Renaciedo juvenile correctional center, authorities detained and allegedly beat Herlan Fabricio Ramirez Colindres, a 16-year-old gang member suspected of committing several violent crimes, including the killing of DEA agent Michael Marke. Authorities reportedly left Ramirez handcuffed for more than 24 hours. Human rights activists protested the treatment of Ramirez and other minors held at the same detention center.

On May 30, Gregoria Flores, Garifuna rights activist and coordinator of the NGO OFRANEH (Organizacion Fraternal Negra Hondurena), was shot and injured in La Ceiba while collecting testimony to present before the Inter-American Court of Human Rights regarding the Garifuna community's land rights disputes with development interests. Police reported that the shooting was a robbery attempt, but indigenous rights advocates did not believe that this was a credible explanation and continued to push for a reopening of the investigation.

Regarding the cases of those accused of the 1982 illegal detention and torture of six students, on April 12, the case of retired Captain Billy Fernando Joya Amendola was appealed to a higher court, but the courts continued to deny appeals by the Public Ministry to reinstate his arrest warrant. The Public Ministry's appeal of the dismissal of charges in 2004 against retired Colonel Juan Evangelista Lopez Grijalba remained pending. At year's end Lopez Grijalba remained free on bail.

There were no further developments in the Supreme Court of Justice's 2004 injunction ordering the appeals court to issue a new judgment in the case of retired Major Manuel de Jesus Trejo Rosa, arrested with Raymundo Alexander Hernandez for the 1982 illegal detention and attempted killing of Nelson MacKay Echevarria and Miguel Francisco Carias Medina.

Prison and Detention Center Conditions

Prison conditions were harsh, and prison security was poor. Human rights groups reported that prisoners suffered from severe overcrowding, malnutrition, lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape by other prisoners. In many cases prisoners relied on outside help from visitors to survive because the prison system did not provide adequate food or other basic necessities. Prison escapes, through bribery or other means, remained a frequent occurrence. Herlan Fabricio Ramirez Colindres (see section 1.a.), escaped from two different prisons prior to incarceration on November 26, in the minors facility at Renacer prison. Of the year's prison population of 11,545, approximately 905 inmates were gang members.

Prison disturbances, caused primarily by harsh conditions and inter-gang violence, occurred in the larger facilities of San Pedro Sula, Tegucigalpa, and Choluteca. During the year 19 gang members were killed in prison, in some cases by members of rival gangs. Casa Alianza reported the deaths of four youths in prisons and juvenile detention centers. Prison authorities attempted to hold prisoners of opposing gangs in different facilities or in different areas of the same prison to reduce inter-gang tensions and violence.

At year's end no charges had been filed, and there were no further developments, in the investigation of the May 2004 fire at the San Pedro Sula prison that killed 107 gang members.

There were no further developments in the pending court cases of 51 persons charged in 2004 with murder and other criminal offences for alleged involvement in the deaths of 68 persons in 2003 at El Porvenir prison near La Ceiba.

Due to the government's failure to allocate resources for alternative facilities, prisons held persons with mental illnesses, as well as those

with tuberculosis and other infectious diseases, among the general prison population. Human rights organizations accused prison officials of using excessive force against prisoners, including beatings, as well as isolation and threats.

Although women generally were held in separate facilities under conditions similar to those of male prisoners, female prisoners did not have conjugal visit privileges. At certain lower security prisons, women were held with the general population. Children up to age two were permitted to stay with their mothers in prison. Pretrial detainees generally were held together with convicted prisoners.

The government operated juvenile detention centers in Tamara (one for boys and one for girls), El Carmen (for boys) in San Pedro Sula, and in Jalteva (for boys) near Tegucigalpa, but sometimes detained minors with adult prisoners in adult prisons facilities.

During the year Casa Alianza and the Honduran Institute for Children and the Family (IHNFA) signed an agreement to use: \$52,910 (1 million lempiras) to develop a mental health program in youth rehabilitation centers, another \$52,910 (1 million lempiras) to create a scholarships program to reintegrate youth into society after incarceration or other detention; and \$9,524 (180 thousand lempiras) to complete a building in Choluteca for an IHNFA office to manage issues of children in conflict with the law. By November Casa Alianza had received a check for \$52,910 (1 million lempiras) to begin undertaking these projects.

There were no further developments in the 2004 negotiations between the government and Casa Alianza regarding Casa Alianza's complaint to the Inter-American Court of Human Rights regarding four minors tortured in a Comayagua prison in 1995.

The government generally permitted prison visits by independent local and international human rights observers, and such visits occurred during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but the authorities at times failed to observe these prohibitions.

Role of the Police and Security Apparatus

The Ministry of Public Security oversees police operations, including those of the Preventive Police, Dirección General de Investigaciones Criminal (DGIC), Transit Police, Frontier Police, Tourist Police, and Prison Police. Police lacked training and funding, and were understaffed. Corruption was a serious problem. The Ministry of Public Security reported that from 2000 through August, 186 police officials had been prosecuted and 1,344 had been fired for reasons ranging from incompetence to corruption. There was widespread public concern regarding the perceived inability of the security forces to prevent and control crime, and the public continued to believe that corrupt security personnel were complicit in the high crime rate.

During the year police and military continued joint patrols of the streets. Gang violence and intimidation remained serious problems, and gangs continued to harass, threaten, and rob passengers on public transportation, causing the government to station security officers on many public buses. Perpetrators of killings against youth and minors, including in some instances police, continued to act with impunity.

The Office of Internal Affairs investigates allegations of illegal activities committed by members of the police force. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR) that conducts internal reviews of police misconduct.

The NGO CODEH continued government-funded programs to train staff of the Prison Police to avoid committing acts of torture. During the year police and military officials took human rights training provided by international donors.

Arrest and Detention

The law states that police may arrest a person only with a court order, unless the arrest is by order of a prosecutor, made during the commission of a crime or when there is strong suspicion that a person has committed a crime and may try to evade criminal prosecution, or is caught with evidence related to a crime. Police must clearly inform the person of the grounds for the arrest. Police must bring a detainee before a competent authority within 24 hours. The prosecutor has 24 hours to decide if there is probable cause for an indictment, and a judge then has 24 hours to decide whether to issue a temporary detention order that can last up to 6 days. Within this time period, a pretrial hearing must be held for the judge to examine probable cause and make a decision on whether or not pretrial detention should continue. The law provides for bail for persons charged with felonies. The law also provides for prisoners to have prompt access to family members. Although the law provides that prisoners have prompt access to a lawyer of their choice and that the state affords legal counsel for indigent prisoners, these requirements were not always followed in practice.

There were no reports of political detainees.

Lengthy pretrial detention was a serious problem. During the year approximately 63 percent of the prison population awaited trial. The law mandates the release from prison of any detainee whose case has not come to trial and whose time in detention exceeds the maximum prison sentence for the crime of which he is accused. Due to judicial inefficiency and corruption and lack of sufficient resources allocated by the government, many pretrial detainees already had served time in prison equivalent to the maximum allowable for the crime for which they were accused. Many prisoners remained in jail after being acquitted or having completed their sentences due to the failure of responsible officials to process their releases.

a. Denial of Fair Public Trial

Although the law provides for an independent judiciary, the judicial system was poorly funded and staffed, inadequately equipped, often ineffective, and subject to patronage, corruption, and political influence.

Low wages and lack of internal controls rendered judicial officials susceptible to bribery, and powerful special interests still exercised influence in the outcomes of court proceedings.

During the year 74 percent of approximately 221,000 cases pending under court procedures organized in 2004 were purged. The law requires backlogged cases to be resolved by 2006.

There are 12 appeals courts, 77 courts of first instance with general jurisdiction, and 330 justice of the peace courts with limited jurisdiction. The Supreme Court of Justice names all lower court judges. The media and various civil society groups expressed concern that the 8-7 split between the National and Liberal parties on the court resulted in politicized rulings by the Supreme Court of Justice.

Trial Procedures

The law provides for the right to a fair public trial. Although the law provides that the accused is presumed innocent and has the right to an initial hearing by a judge, to bail, to consult with legal counsel in a timely manner, to have a lawyer provided by the state if necessary, as well as a right to appeal, the rights of defendants were not always observed.

Although the law prohibits cases from proceeding where a suspect lacks legal representation, the government allocated minimal resources to the public defender program. As a result, the public defender was not able to meet the demand for legal assistance to those unable to afford representation.

Political Prisoners

There were no reports of political prisoners.

b. Arbitrary Interference with Privacy, Family, Home, Correspondence

Although the law generally prohibits such actions, a legal exception allows entry at any time in the event of an emergency or to prevent the commission of a crime. There continued to be credible charges that police personnel failed at times to obtain the needed authorization before entering a private home.

Garifuna and other indigenous rights leaders continued to complain that the government failed to redress previous actions by private and public security forces that dislodged farmers and indigenous groups who claimed ownership of lands based on land reform laws or ancestral titles to property (see section 5). Despite reforms to the civil service system, party membership often was necessary to obtain or retain government employment.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Although the law generally provides for freedom of speech and of the press, demonstrators are restricted from using statements that could incite persons to riot.

On May 19, the Supreme Court of Justice repealed a legal provision outlawing insult of public officials. Some journalists admitted to practicing self-censorship when their reporting challenged the political or economic interests of media owners.

A small number of powerful business magnates with intersecting commercial, political, and family ties owned most of the country's news media. The government influenced media coverage of its activities through the granting or denial of access to government officials. In May all three branches of the government and several private organizations continued the practice of granting awards, some accompanied by substantial sums of cash, to individual reporters, editors, cameramen, photographers, and editorial cartoonists on Journalists' Day. NGOs that monitor press freedom viewed these awards as an acknowledgment by the granting institutions of perceived services rendered. The government had considerable influence on the print media through granting or withholding official advertisements funded with public funds.

The news media continued to suffer from internal corruption, politicization, and outside influences. Ministers and other high-ranking government officials obtained press silence through hiring journalists as public affairs assistants at high salaries and paid journalists to investigate or suppress news stories.

When the news media attempted to report in depth on national politicians or official corruption, media members were sometimes denied access to government information. The NGO Reporters Without Borders reported that on November 15, the power cables of local radio station Virtud Stereo were cut with machetes allegedly by Liberal Party members, to suspend broadcasts that contained National Party

advertisements during national elections.

On February 18, the Inter American Press Association (IAPA) submitted a letter to then president Maduro asking for immediate action to end hostile acts against the media by then president of the National Congress Porfirio Lobo Soso. The IAPA criticized Lobo's use of the media as a public forum to advocate for the elections law. The former Maduro government regularly used the Cadena Nacional to preempt all television and radio broadcasts to present presidential addresses. Legally, the heads of the executive, legislative, and judicial branches, as well as the president of the Supreme Electoral Tribunal, have access to use the Cadena Nacional. During the year, the president of Congress, who was also a candidate for the presidency, used the Cadena Nacional on several occasions.

During the year there were several reports of threats or lawsuits against journalists by powerful persons, including legal cases against journalists for their reports on corruption.

At year's end the March 2004 appeal by journalist Renato Alvarez to the Supreme Court of Justice remained pending. Alvarez was seeking an annulment of his sentence for defamation and slander.

In March 2004 an unknown assailant shot and injured journalist Edgardo Castro in San Pedro Sula. There was no indication that the assailant was motivated by Castro's role as a journalist. Police captured and detained two suspects at that time. An investigation was pending at year's end.

There were no further developments regarding the investigation into anonymous telephone threats received in November 2004 by Jhonny Lagos, the director of a new small independent monthly newspaper, *El Libertador*, and his family.

At year's end, there were no new developments, and none were expected, in the 2003 killing of journalist German Antonio Rivas.

The government did not restrict academic freedom or Internet access.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law generally provides for freedom of association, and the government generally respected this right.

Freedom of Association

The law generally provides for freedom of association, and the government generally respected this right in practice; however, the criminal associations law prohibits illicit association and prescribes prison terms of 3 to 12 years (see section 4). During the year gay rights advocacy groups expressed concerns that the law prohibiting illicit associations could be used to criminalize social activities and organizations of the gay community. During the year the law prohibiting illicit associations was used to arrest individuals for being members of Mara Salvatrucha and other gangs.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice. The government prohibits immigration of foreign missionaries who practice religions that claim to use witchcraft or satanic rituals.

Societal Abuses and Discrimination

There were no reports of discrimination or violence against religious groups including anti-Semitic acts. The Jewish population constituted approximately 100 persons.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

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

The law provides for these rights, and the government generally respected them in practice.

The law does not explicitly prohibit forced internal or external exile, but the government did not employ this practice during the year.

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. During the year the government accepted eight Cuban refugees for resettlement. The government cooperated with the UN High

Commissioner for Refugees, the International Office of Migration, and other humanitarian organizations in assisting refugees and asylum seekers.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage. Active members of the clergy and of the military and civilian security forces are not permitted to vote.

Elections and Political Participation

In November national elections, which were described by international observers as generally free and fair, Jose Manuel Zelaya Rosales of the Liberal Party received a plurality of votes and became president-elect. Observers noted irregularities at approximately 1,100 ballot boxes but no systemic patterns of fraud.

Several Protestant ministers ran and won in the February primary elections, but the Supreme Electoral Tribunal declared their candidacies invalid for technical reasons prior to the general November elections, and they were replaced on the ballots.

Opportunities for women to participate in politics remained limited, particularly for those seeking elected office. During the year 32 women were elected as members in the 128-seat National Congress, which was the largest number of women ever elected to the legislature. There were 9 female justices, 1 of whom was president, on the 17-member Supreme Court of Justice.

There were few minorities or indigenous people in leadership positions in government or politics. For the first time in the country's history, there were 3 Garifuna (see section 5) congresspersons in the 128-seat legislature, but there were no members from other ethnic minority or indigenous communities.

Government Corruption and Transparency

The executive and legislative branches were subject to corruption and political influence. During the year the government implemented an anticorruption policy based on institutional reforms and prosecution of public and private sector officials accused of corruption. There remained, however, a widespread perception among the public and international observers that the government's anticorruption institutions were unwilling or lacked the professional capacity to investigate, arrest, and prosecute those involved in high-level corruption.

On May 1, Ramon Romero, director of immigration, was removed from his position, arrested, and charged with various counts of corruption. At year's end the case was pending trial and Romero remained under house arrest.

There were no laws permitting citizens to have access to information regarding government operations or decisions.

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. Government officials generally cooperated with these groups and were responsive to their views.

On September 12, Juan Almendares Bonilla, executive director of the NGO Center for the Prevention, Treatment and Rehabilitation of Torture Victims and Their Relatives (CPTRT) and the presidential candidate for the Democratic Unification Party, reported that two men accosted and intimidated him on the street and also that unknown individuals subsequently made threatening phone calls to Bonilla and his relatives. On September 19, unknown assailants attempted to break into the CPTRT office in Tegucigalpa.

There were no new developments in the pending investigation of the April 2004 killing of human rights activist Marvis Guelio Perez and the May 2004 assault of Jose Idalecio Murillo, a leader of the Regional Coordination of Popular Resistance.

The government cooperated with international organizations such as the International Committee of the Red Cross, but no visits by these organizations occurred during the year.

The National Human Rights Commission (NHRC), an autonomous government institution, was headed by Human Rights Commissioner Ramon Custodio Lopez. The NHRC director had free access to all civilian and military institutions and detention centers and functioned with complete immunity and without government or political party interference. The government generally cooperated with, but allocated inadequate financial or other resources to, the NHRC. There was no information available regarding any reports produced by the NHRC during the year.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status. In practice, however, political, military, and social elites generally enjoyed impunity under the legal system.

Women

Violence against women remained widespread. The law criminalizes domestic violence with imprisonment between two and four years. The law does not impose fines for domestic violence, and its only sanctions for violators are community service and 24-hour preventive detention if the violator is caught in the act. The law provides a maximum sentence of three years' imprisonment for disobeying a restraining order connected with the crime of intra family violence.

The government did not enforce the law effectively with regard to domestic abuse. During the year the Public Ministry received 5,891 reports of alleged domestic violence, resulting in 2,320 convictions; 3,571 cases remained under investigation. There were 2,040 reports of alleged intra family violence, a more serious crime under the law, with 1,034 cases prosecuted and 1,006 under investigation. There were 1,074 reports of rape, resulting in 466 convictions and 608 cases under investigation.

The government worked with CARE and other NGOs to provide specialized training to police officials on enforcing the law relating to domestic violence. There were two facilities that specifically provided physical shelter for battered women. Both shelters were operated by NGOs. The shelter in Tegucigalpa could accommodate 20 women and their families. Additionally, six other private centers for battered women offered legal, medical, and psychological assistance.

The penalties for rape range from 3 to 9 years' imprisonment, and the courts enforced these penalties in practice. Because all rapes, with the possible exception of spousal rape, which is evaluated on a case by case basis, are considered public crimes, a rapist can be prosecuted even if the victim does not want to press charges.

Whereas adult prostitution is legal and relatively widespread, the law prohibits promoting or facilitating for purposes of prostitution.

Women were trafficked for sexual exploitation and debt bondage (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace and provides penalties of one to three years' imprisonment. Sexual harassment continued to be a problem, but the government did not effectively enforce the law. Despite legal protections against such practices, workers in the textile export industries continued to report that they were required to take pregnancy tests as a condition for employment.

The majority of women worked in lower status and lower paid informal occupations, such as domestic service, without legal protections or regulations. Women were represented in small numbers in most professions, and cultural attitudes limited their career opportunities. Under the law, women have equal access with men to educational opportunities. The law requires employers to pay women equal wages for equivalent work, but employers often classified women's jobs as less demanding than those of men to justify paying them lower salaries.

Whereas women and men are accorded equal rights under the law, including property rights in divorce cases, in practice women were not granted such rights.

The government maintained a cabinet-level position directing the National Women's Institute, which develops women and gender policy. Several NGOs actively addressed women's issues, including the Center for the Study of Women-Honduras, which dealt with trafficking in persons, commercial sexual exploitation, domestic workers, and other issues.

Children

The government was committed to children's rights and welfare. The educational system, however, faced fundamental problems, including high dropout rates, low enrollment at the secondary level, unbalanced distribution of government spending, teacher absenteeism, and low quality of classroom education.

Although the law provides for free, universal, and compulsory education through the age of 13, the government estimated that as many as 118 thousand out of 1,146,195 children ages 6-11 did not receive any schooling during the year. According to a 2002 National Institute of Statistics (INE) study, the most recent available, only one of two students made it to the sixth grade.

Girls and boys had equal access to medical care.

Child abuse was a serious problem. The law establishes prison sentences of up to three years for persons convicted of child abuse. The Public Ministry received 646 reports of alleged crimes against children, including child abuse, with 183 cases tried and 463 cases under investigation at year's end.

Trafficking in children for commercial sexual exploitation and child prostitution were problems (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

The government was unable to improve the living conditions or reduce the numbers of street children and youth. The government and children's rights organizations estimated that during the year there were 20 thousand street children, half of whom had shelter. Many street children were sexually molested or exploited. The Tegucigalpa city administration operated 12 temporary shelters with a total capacity of 240 children. The NGO Casa Alianza operated 3 shelters for 160 children, 1 for victims of commercial sexual exploitation, 1 for street children, and 1 for children with substance abuse problems.

Abuse of youth and children in poor neighborhoods and in gangs remained a serious problem. Violence and deprivation of the basic necessities were constant issues. Members of the police and members of the general population engaged in violence against poor youth and children (see sections 1.a and 1.c). Human rights groups alleged that individual members of the security forces worked with civilian (including vigilante) groups and used unwarranted lethal force against supposed habitual criminals or suspected gang members, as well as against other youths not known to be involved in criminal activity. Press reports during the year noted that 431 children and young adults (age 23 and under) were killed. Casa Alianza indicated possible police involvement in a number of these incidents.

Several groups and families of the victims pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders. The Ministry of Public Security acknowledged that individual police officers had been investigated for participation in killings of street youth. By year's end international NGOs, including CARE, and foreign government donors had provided training in domestic violence, and other human rights problems for police and armed forces units.

From July 2003 through December, the Special Investigative Unit on Child Killings had received 980 cases, 190 of which were forwarded to the Public Ministry for prosecution with the remaining 790 under investigation. Of the 190 cases forwarded to the Public Ministry, gang members were thought to be responsible in 44 percent of the cases, other private individuals in 44 percent of the cases, and police or other government officials in 12 percent of the cases.

The law outlaws illicit association, including gang and organized crime membership, and prescribes prison terms ranging from 3 to 12 years, depending on the individual's level of involvement and seniority. Through November 364 persons were detained for illicit association. Human rights organizations continued to criticize the law and its implementation. Year-end statistic indicated that there were approximately 30 thousand to 40 thousand persons, many of them minors, belonging to gangs in the country. Membership was primarily confined to the Tegucigalpa and San Pedro Sula areas. The Mara Salvatrucha (MS 13) and the Mara 18 were the largest and most violent of the gangs and accounted for approximately 40 percent of gang membership countrywide.

Trafficking in Persons

The country was a source and transit point for trafficking in persons. In addition there was internal trafficking in persons.

Although there is no comprehensive antitrafficking law, various provisions in penal, child exploitation, and immigration statutes criminalize trafficking and enable the government to prosecute traffickers. The law provides for sentences of between six and nine years' imprisonment. The penalty is increased if the traffickers are government or public employees, or if the victim suffers loss of liberty or is killed.

The government's General Directorate for Population and Migration was responsible for enforcing the country's immigration laws but had no arrest powers. Many of the government's antitrafficking measures were conducted in the context of combating the illegal movement of migrants. Corruption, insufficient governmental allocation of personnel and other resources, and administrative weaknesses among the police and court system undermined enforcement efforts. There were 13 prosecutors in Tegucigalpa, 5 in San Pedro de Sula, and 2 in La Ceiba that formed part of the Office of the Special Prosecutor for Children, along with 8 special child abuse investigators in Tegucigalpa, 4 of whom focused on sexual and commercial exploitation of minors. Some officials were investigated and dismissed for corruption.

On January 20, 3 of 10 members of an international human trafficking ring that lured women into commercial sexual exploitation abroad were arrested in the country. Another 7 members of the ring were arrested in the US, where 2 individuals pled guilty, one for harboring and the other for trafficking. The trial in the US was re-scheduled for 2006. At year's end the three defendants detained in the country were awaiting a preliminary hearing. There was also an outstanding warrant for the arrest of the individual who procured the women for the trafficking operation.

On May 28, police rescued four girls and arrested three individuals for trafficking girls into Guatemala. The investigation leading to the arrests occurred after parents filed a police report regarding their missing daughters. At the end of year the Public Ministry Special Prosecutor for Children prosecuting the case.

At year's end Maria Isabel Cruz Zamora, convicted in October 2004 of alien smuggling and trafficking in persons, remained a fugitive with an outstanding arrest warrant.

On February 23, a court sentenced 2 persons convicted of aggravated trafficking for sexual exploitation to 6 years' imprisonment, and 1 person of money laundering to 24 years' imprisonment; 2 elderly persons were released for insufficient evidence. The defendants were members of a family trafficking ring in Tocoa and had been arrested in 2003 for trafficking.

By year's end the Public Ministry estimated that there were 14 convictions and approximately 50 ongoing cases of commercial sexual exploitation pending convictions, including 8 cases scheduled for trial, 3 cases awaiting a hearing, and 7 cases under investigation for further consideration.

During the year the government cooperated with North Americans, Mexican, Guatemalan, and Belizean governments to identify and repatriate minors. The government, along with agencies of the Nicaraguan and Guatemalan governments and NGOs, met in August in Copan to discuss regional cooperation against trafficking and commercial sexual exploitation. The Office of the Special Prosecutor for Children worked with its Guatemalan counterpart to locate and repatriate children that were trafficking victims.

Women and children were trafficked into Guatemala and also internally, most often from rural to urban settings. The commercial sexual exploitation of children was a serious problem. As of October Casa Alianza estimated that there were approximately 10 thousand children

who were victims of some form of commercial sexual exploitation. The Office of the Special Prosecutor for Children conducted 30 operations jointly with the police, the Honduran Institute for Children and the Family (IHNFA), judges, and Casa Alianza, to rescue victims and arrest and prosecute those responsible for these victims' exploitation.

Most trafficking victims were young women and girls, who were trafficked to Guatemala, Belize, El Salvador, Mexico, the United States, and Canada for sexual and labor exploitation. Traffickers were reportedly locals as well as Guatemalan, Mexican, and in some cases Chinese or Taiwanese nationals. In a majority of cases, traffickers posed as *coyotes* (alien smugglers), claiming to facilitate border crossings and help immigrants enter other countries in Central America, Mexico or the US. In some cases victims were promised lucrative jobs but instead were forced into commercial sexual exploitation, drug trafficking, or debt bondage.

The government, in conjunction with UNICEF, conducted 10 public information campaigns against trafficking and commercial sexual exploitation, and raised awareness of children and women's rights and risks associated with illegal migration.

The government and Casa Alianza, along with other NGOs, held 17 training seminars on the prevention and eradication of the commercial sexual exploitation of children and trafficking in women and children. Through these seminars the Public Ministry trained a total of 740 justice officers.

The government did not provide assistance to foreign victims of trafficking and did not provide funding to NGOs that helped trafficking victims. IHNFA was responsible for dealing with repatriated minors upon their arrival in the country.

Persons with Disabilities

The law does not require access to buildings for persons with disabilities, and there are no general statutory protections for persons with mental or physical disabilities except that it is illegal for an employer to discriminate against a worker based on disability. During the year there were no reports of discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The Public Ministry was responsible for protecting the rights of persons with disabilities.

Indigenous People

Approximately 621 thousand persons, constituting 9 percent of the general population, were members of indigenous and other ethnic groups. These populations, including the Miskitos, Tawahkas, Pech, Tolupans, Lencas, Chortis, Nahuatl, Islanders, and Garifunas, lived in 362 communities and generally had little or no political power to make decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Most indigenous lands were owned communally, providing land use rights to individual members of the ethnic group. Indigenous land titles often were defined poorly in documents dating back to the mid-19th century. Lack of clear title fostered encroachment and appropriation conflicts with landless nonindigenous settlers and with powerful business elites and government entities interested in exploiting coastlines, forests, and other lands traditionally occupied or utilized by indigenous and other ethnic groups. Indigenous and nonindigenous communities criticized the government's alleged complicity in the exploitation of timber and other natural resources on these lands.

By year's end there were several protests by indigenous groups regarding land rights disputes and perceived government discrimination. On June 7 and September 15, the Consejo Nacional Indigena Maya Chorti, a Chorti indigenous rights group, seized the Mayan ruins of Copan and held demonstrations to force the Maduro administration to fulfill commitments made by the government in 1997 to purchase land and transfer legal title to the Chorti community. Although the then president Maduro publicly agreed to fulfill the government's promise, at year's end the Chorti community was awaiting the purchase and transfer of the disputed lands.

Garifuna leaders also continued to petition the government regarding their concerns about large-scale commercial development undertaken on coastal lands traditionally occupied and utilized by their communities. The government permitted tourism development by private local and foreign business interests on the disputed lands using 100-year leases designed to revert to the Garifuna after the expiration of that period of time. During the year Garifuna leaders reported harassment, threats, and assaults, including the suspicious shooting of one of their spokespersons (see section 1.c.). Many Garifuna rights activists continued to oppose the government's attempts to provide individual land titles to community members on lands traditionally held in common by the Garifuna people.

The government undertook minimal efforts to work with indigenous groups to address concerns regarding ownership and use of traditional lands.

The courts commonly denied legal recourse to indigenous groups and often favored nonindigenous parties of means and influence. Failure to obtain legal redress frequently led indigenous groups to attempt to regain land through invasions of private property, which gave the authorities occasion to retaliate forcefully.

Human rights organizations, including Amnesty International, continued to complain about alleged poor treatment, police beatings, and denial of adequate medical care for indigenous brothers Marcelino Miranda Mendoza and Leonardo Miranda Mendoza, members of the Civic Council of Indigenous and Popular Organizations of Honduras. Jailed in 2003, the brothers were later convicted and sentenced during that same year to 29 years in jail for the 2001 murder of Juan Reyes Gomez. In 2003 the Supreme Court of Justice overturned the sentence for Gomez's murder and ordered the appeals court to reconsider the case. However, the two indigenous brothers continued to remain in jail, and there were no further developments in their case at year's end. On June 6, indigenous leader Feliciano Pineda was arrested in connection with the 2001 killing of Juan Reyes Gomez. In December Pineda was acquitted but remained in prison on other charges, including theft, damages to property, and home invasion allegedly connected with the killing (see section 1.a.).

Other Societal Abuses and Discrimination

Job-related age discrimination was a serious problem. There were no discriminatory laws based on sexual orientation, but in practice social discrimination against persons based on sexual orientation was widespread. Representatives of the sexual diversity rights NGOs Violet Collective, the San Pedro Gay Community, Kukulcan, and the Transvestite Sex Workers Collective of San Pedro Sula asserted that their members regularly experienced abuses, beatings, killings (see section 1.a.), and other physical and verbal mistreatment from authorities. They also asserted that there was anti-gay discrimination by security forces and government agencies, and that employers used illegal discriminatory hiring practices. These groups also reported that due to intimidation, fear of reprisal, and police corruption, gay and lesbian victims of abuse were reluctant to file charges or proceed with prosecutions.

The NGO Red de Hombres Gay Positivos alleged that employers routinely ignored antidiscrimination employment laws and used testing supposedly for syphilis among employees and job applicants as a means to detect HIV status so as to weed out persons testing positive. The NGO also alleged that some Protestant churches fueled prejudice against HIV positive persons.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right of workers to form and join unions of their choice, and workers exercised this right in practice. Members of the armed forces and the police force are prohibited by law from forming labor unions. The law prohibits public service employees from presenting union-organizing petitions or participating in collective bargaining. According to July statistics from the Ministry of Labor, approximately 8 percent of the work force, excluding the agriculture sector, and approximately 13 percent of the 133 thousand maquiladora work force was unionized.

The law prohibits more than 2 trade unions to coexist at a single enterprise, requires 30 or more workers to constitute a trade union, prohibits foreign nationals from holding union offices, requires that union officials be employed in the economic activity of the business the union represents and restricts unions in agricultural enterprises with less than 10 employees.

A number of private firms continued to maintain solidarity associations that provided credit and other services to workers who were members of these associations. Representatives of organized labor groups criticized these associations, asserting that they do not permit strikes, have inadequate grievance procedures, are meant to displace genuine, independent trade unions, and are employer-dominated.

Whereas the law prohibits retribution by employers for engaging in trade union activity, retribution was a common practice with employers threatening to close unionized companies, harassing, or dismissing workers seeking to unionize. Some foreign companies closed operations when notified that workers sought union representation.

The Ministry of Labor can reach administrative decisions on allegations of unfair dismissal and fine companies, but only a court can order reinstatement of workers. If the court orders an employer to reinstate workers fired for engaging in union activity, under the law, the company or employer is required to comply with the ruling. In practice, however, reinstatement of workers was a serious problem, and employers often failed to abide by court orders for reinstatement.

Although the law prohibits blacklisting, there was credible evidence that maquiladora employers used blacklisting of employees seeking to form unions. A number of maquiladora workers allegedly fired for union activity were hired for one or two weeks and then dismissed with no explanation. Maquiladora employees reported seeing computer records that included previous union membership in personnel records. Some employers informed previously unionized workers that they were unemployable because of their previous union activity.

The Ministry of Labor did not always provide effective protection to labor organizers due to corruption and unethical behavior of inspectors, including the selling of names of employee union organizers to company management before government recognition of the union.

More than 30 maquiladora workers asserted that they were given an ultimatum by management and fired on February 23 for trying to form a union at their workplace at the Olga de Villanueva company. According to information from the Ministry of Labor, on June 16, the workers were relocated by management to Hamlet Manufacturing company. The employees filed a complaint with the United Confederation of Worker of Honduras as well as with the Ministry of Labor. At year's end the case was under investigation by the Ministry of Labor.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and to bargain collectively, and the government protected this right in practice. Although the law requires that an employer begin collective bargaining once workers establish a union, employers often refused to engage in bargaining.

The law provides for the right to strike, and workers exercised this right in practice. The law, however, prohibits strikes in a wide range of economic activities deemed essential services and any others that in the government's opinion restrict individual rights to security, health, education, economic or social life. The identified essential services include, air and water transportation, electrical energy production, telecommunications, hospitals and clinics, refuse collection and cleaning services, production of primary necessities affecting public services, social and charitable associations, animal and plant hygiene and scientific investigation of illnesses, as well as petroleum production, refining, transport, and distribution.

The ILO criticized the law's denial of the right to strike to workers in the petroleum sector and to all government workers, other than

employees of state-owned enterprises. At times civil servants engaged in illegal work stoppages without experiencing reprisals. In such cases, however, the Ministry of Labor has the power to declare the protest illegal at the request of the employer or public service sector management and dismiss the protesting workers. The following legal restrictions applied to strikes: a prohibition on labor federations and confederations from calling strikes, and a requirement that a two-thirds majority of the votes of the total membership of the trade union call a strike, rather than a simple majority.

The same labor regulations apply in the export processing zones (EPZs) as in the rest of private industry, with the exception that the law provides additional restrictions on strikes in EPZs. There were 44 free zones established in the country and 18 industrial parks operating as EPZs. An additional 26 companies had their own free zones, outside of the industrial parks. In the absence of unions and collective bargaining, several companies in the EPZs instituted solidarity associations that, to some extent, functioned as company unions for the purposes of setting wages and negotiating working conditions. Other EPZ companies used the minimum wage to set starting salaries and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria.

c. Prohibition of Forced or Compulsory Labor

Although the law generally prohibits forced or compulsory labor, including by children, it permits compulsory labor for convicted criminals. Additionally, there were credible allegations of compulsory overtime at maquiladora plants, particularly for women, who comprised approximately 65 percent of that sector's workforce.

d. Prohibition of Child Labor and Minimum Age for Employment

The law regulates child labor and provides that minors under age 16 or students ages 16 and older cannot work, unless authorities determine that the work is indispensable for the family's income and will not conflict with schooling. The constitution establishes the maximum hours worked for children under 17 years as 6 hours daily and 30 hours weekly. By law, parents or a legal guardian can request special permission from the labor ministry to allow children between the ages of 14 and 15 to work, as long as the ministry performs a home study to ensure that the child demonstrates economic necessity to work and that the child will not work outside of the country or in hazardous conditions, including offshore fishing. In practice, the labor ministry conducted only a limited number of home studies.

The law prohibits night work and overtime for minors under age 16, and requires that employers in areas with more than 20 school-aged children working at their business facility provide a location for a school. In practice, the vast majority of children worked without ministry permits.

The Ministry of Labor did not enforce effectively child labor laws outside the maquiladora sector, and there were frequent violations of the child labor laws in family farming, agricultural export, including the melon, coffee, and sugarcane industries, and in small-scale services and commerce. Many children worked out of economic necessity alongside other family members.

A 2004 survey by the National Institute of Statistics (INE) managed by the ILO's International Program on the Elimination of Child Labor (IPEC) determined that approximately 359,752 children, constituting 14 percent of children between the ages of 5 and 18, worked either part-time or full-time. Many boys between the ages of 13 and 18 worked as lobster divers with little safety or health protection. Children who worked on melon and sugarcane farms were exposed to pesticides and long hours. Although garbage disposal sites were legally off limits to children, there were large numbers of minors working at these locations.

Casa Alianza conducted a study in 20 cities of the country and found that 10 thousand children were victims of commercial sexual exploitation crimes or trafficking in persons (see section 5).

There were isolated cases of children under the legal working age working in the maquiladora sector. Younger children sometimes obtained work permits by fraud or purchased forged permits.

The Ministry of Labor continued a campaign to increase industry awareness on the worst forms of child labor. The IPEC program identified the worst forms of child labor in the country as commercial sexual exploitation particularly in tourist areas along the North Coast, fireworks production, offshore diving from boats for commercial lobster fishing, limestone quarrying and lime mining, garbage dump picking, melon and other commercial agriculture production involving handling of pesticides, wood-cutting in saw mills and construction activities.

By year's end the government had undertaken a number of social and educational programs to reach at-risk children, including a school grant program of the Ministry of Education to provide money for school supplies for very poor families, and an alternative schooling program using radio and long-distance learning for children in distant rural areas with few schools. Government measures had minimal impact on diminishing child labor in light of extreme poverty, famine conditions in rural areas, and a lack of jobs for school graduates.

e. Acceptable Conditions of Work

The daily minimum wage scale, which was updated during the year, is broken down by sector and size of business: small (1-15 workers) and large (16 or more workers). The scale ranges from \$3.24 (61.3 lempiras) for workers in small agriculture to \$5.17 (97.8 lempiras) for workers in financial and insurance companies and workers in export-oriented businesses, including maquiladoras and commercial agriculture, such as tobacco, coffee, bananas, and seafood production. Workers in areas such as construction, services, mining, transportation, communication, etc., had minimum wages between these two rates. The minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Labor and the Minimum Wage Commission were responsible for enforcing the minimum wage.

The law prescribes a maximum a 44-hour workweek and at least one 24-hour rest period for every 6 days of work. The law requires overtime payment for hours in excess of the standard, and there are prohibitions on excessive compulsory overtime. Employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor. Foreign workers enjoyed equal protection under the law, although the process for a foreigner to obtain a work permit from the Ministry of Labor was cumbersome.

The Ministry of Labor was responsible for enforcing national occupational health and safety laws, but did not do so consistently or effectively. Worker safety standards were enforced poorly, particularly in the construction industry and in agriculture production activities. There were complaints that foreign factory managers in EPZs and other private industrial facilities failed to comply with occupational health and safety regulations (see section 6.b.). Workers in pineapple production and other commercial agriculture enterprises alleged blacklisting by employers if they made complaints to the authorities about working conditions. During the year the Ministry of Labor engaged in some training of labor inspectors to integrate and unify inspection capacity. The ministry also undertook with the National Autonomous University of Honduras a technical assistance workshop diploma course on workplace risk prevention that trained 24 inspectors.

The NGO Association of Crippled Mosquito Divers filed a case with the **Inter-American Commission on Human Rights** to pressure the government to adhere to a July 2004 agreement with the association mandating that employers create better working conditions for divers, including use of safe diving equipment to minimize the high incidence of serious disabilities and death suffered by divers.

The law does not provide workers with the right to leave a dangerous work situation without jeopardy to continued employment.

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