CAPE VERDE

Cape Verde is a multiparty parliamentary democracy in which constitutional powers are shared between the elected Head of State, President Antonio Mascarenhas Monteiro, an independent; the Head of Government, Prime Minister Carlos Wahnon Veiga; and his party, the Movement for Democracy (MPD). The MPD has an absolute majority in the National Assembly. The principal opposition party, the African Party for the Independence of Cape Verde (PAICV), held power in a one-party state from independence in 1975 until 1991. The judiciary is independent, but there were accusations that courts manipulate trial schedules for political reasons.

The Government generally respected the human rights of its citizens; however, problems remain in several areas. There were a few credible reports of police abuse, including beatings, of citizens detained on suspicion of criminal activity. While in principle the law and the judiciary provide means to deal with isolated instances of abuse, in practice the Government has not held accountable police officers who were credibly accused of human rights abuses. Prisons do not meet minimum international standards. The judicial system is overburdened, and lengthy delays in trials are common. There were allegations of media self-censorship. Violence and discrimination against women and mistreatment of
children continued to be serious problems. Although the Government supported legislation to ameliorate these problems, it failed to adopt, implement, and enforce policies designed to address the most critical challenges. The revision of the Constitution in July included the creation of an independent ombudsman.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution prohibits such practices, but there were a number of credible reports that police and prison guards mistreated prisoners. While mechanisms for investigating citizen complaints of police brutality exist in theory, in practice these mechanisms neither ensure the punishment of all those responsible, nor effectively prevent future violations. In addition in some instances of violence against women, the police did not protect the victims effectively.

Prisons do not meet minimum international standards and they are severely overcrowded. In August the Minister of Justice took disciplinary action against prison guards accused of abusing detainees.

The Government permits both formal visits by human rights monitors to prisons and routine visits to individual prisoners.

d. Arbitrary Arrest, Detention, or Exile

The laws provide for protection from arbitrary arrest and detention, and the authorities generally observe these laws in practice. The law stipulates that a suspect must be charged before a judge within 48 hours of arrest. Police may not make arrests without a court order unless a person is caught in the act of committing a felony. A provision that allowed authorities to detain a person for up to 5 days in exceptional cases was revoked.

The courts have jurisdiction over state security cases. There is a functioning system of bail.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for a judiciary independent of the executive branch, and the
Government respects this provision in practice. However, there continued to be accusations of politicized and biased judicial decisions. In July a prosecutor dismissed a case against four citizens associated with the main opposition party who had been arrested for church desecration in 1996. In 1998 a judge ordered their release from detention because of lack of evidence. The prosecutor's decision in July should have ended the State's efforts to prosecute the case permanently; however, the Attorney General did not confirm the prosecutor's decision and declared that the case should await better proof. Another case also involving church desecration appeared to indicate an attempt by a state official to manipulate the judicial process, but in July everyone involved was found innocent (see Section 5). Soon afterwards the Director-General of the judiciary police publicly questioned the judge's impartiality on the grounds that a relative of the judge's appeared as a defense witness. The Director-General's behavior was criticized by the High Court of Magistrates. Many observers recognize that the law requires a judge to recuse himself when the plaintiff or defendant is a relative. This exchange led some persons to question whether the Director-General's motive was to elicit a complaint against him by the judge. If so the judge would be required to recuse herself from a criminal trial scheduled for October, in which the Director-General was to testify as the prime investigator for the prosecution and the judge was scheduled to preside.

The judicial system is composed of the Supreme Court and the regional courts. Of the five Supreme Court judges, one is appointed by the President, one by the National Assembly, and three by the Superior Judiciary Council. This council, created by the last revision of the Constitution in July, consists of the President of the Supreme Court, the Attorney General, eight private citizens, two judges, two prosecutors, the senior legal inspector of the Attorney General's office, and a representative of the Ministry of Justice. Judges are independent and may not belong to a political party.

The Constitution provides for the right to a fair trial. Defendants are presumed to be innocent; they have the right to a public, nonjury trial; to counsel; to present witnesses; and to appeal verdicts. Free counsel is provided for the indigent. Regional courts adjudicate minor disputes on the local level in rural areas. The Ministry of Justice does not have judicial powers; such powers lie with the courts. Defendants may appeal regional court decisions to the Supreme Court.

The judiciary generally provides due process rights. However, the right to an expeditious trial is constrained by a seriously overburdened and understaffed judicial system. A backlog of cases routinely leads to trial delays of 6 months.

There were no reports of political prisoners.

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

The Constitution prohibits such practices, government authorities respect these prohibitions, and violations are subject to effective legal sanction.

Section 2: Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for the freedom to express ideas by words, images, or any other
means, and for freedom of the press without censorship, and the Government generally respected these rights in practice. There is a substantial and growing independent press. Two new private newspapers have emerged. Nevertheless, there was continued criticism by independent political figures of the performance of the state-controlled television, radio, and print media for their failure to exercise vigorously their monitoring role in a multiparty system. In several instances persons whose views did not coincide with those of the Government and the ruling party were transferred, fired, or subjected to other disciplinary actions, the Government does not acknowledge that the divergence of views was the reason for such actions.

During the revision of the Constitution in July, the provision on freedom of expression was amended so that this freedom cannot be used as a defense in cases involving defamation or offense to personal honor. This wording was criticized strongly by the opposition and some journalists on the grounds that it may limit freedom of expression significantly.

Journalists are independent of government control and are not required to reveal their sources. However, there are credible reports that journalists within the government-controlled media still practice self-censorship.

Government authorization is not needed to publish newspapers or other printed material. Despite the broadly interpreted criminal libel laws, no independent media outlets reported having experienced direct pressure in their daily operations or business activities. The national radio station provides live broadcasts of National Assembly sessions.

The law requires a formal licensing mechanism for mass media, including government authorization to broadcast.

The Constitution provides for academic freedom, and this right is respected in practice.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly and association without authorization and without harassment by the authorities. Throughout the year, labor organizations, opposition political parties, civic action groups, and numerous others exercised this right without government interference or objection.

c. Freedom of Religion

The Constitution provides for freedom of religion and the separation of church and state. It also prohibits the State from imposing religious beliefs and practices. The Government respected these rights in practice.

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

The law provides citizens with the right to travel and establish residence without government restrictions.

The Constitution provides for repatriation, and the Government respected this in practice.
The Constitution provides for the right of asylum by refugees, and no violations were reported. The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. According to the Human Rights Commission, credible media reports, and government officials, Nigerian citizens have been subject to harassment and prejudice by immigration authorities.

The Government has not formulated specific policies regarding refugees or first asylum, and the issue of first asylum has never arisen.

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

Citizens have the right to change their government. Power was transferred peacefully by the PAICV to the MPD following free and fair elections in 1991; a second general election in 1995 and municipal and presidential elections in 1996 also were judged free and fair by international observers.

The Constitution provides for the separation of powers. Cabinet ministers are not required to be members of the National Assembly, but they are individually subject to confirmation by the President. Collectively, they must retain the support of a parliamentary majority. The President may dismiss the Government with the approval of the political parties represented in the National Assembly and the Council of the Republic. This council consists of the President of the National Assembly, the Prime Minister, the President of the Constitutional Court, the Attorney General, the Ombudsman, the President of the Economic and Social Council, the former presidents, and five private citizens appointed by the President.

There are no restrictions in law or practice regarding the rights of women or members of minorities to vote or to participate in the political process; however, women are underrepresented in government. Women constitute 11 percent of the deputies elected to the National Assembly. There are two female cabinet ministers and three secretaries of state (junior ministers).

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

There are two private human rights groups, the National Commission of the Rights of Man and the Ze Moniz Association. The Ze Moniz Association carried out a study on conditions in prisons.

The post of an independent ombudsman, to be elected by the National Assembly, was created by the revision of the Constitution in July. To date the ombudsman's powers remain undefined.

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

The Constitution prohibits discrimination based on race, sex, religion, disability, language, or social status. However, despite the Government's increasing efforts to
enforce all relevant constitutional provisions, it still does not do so effectively, and not all elements of society, particularly women and children, enjoy full protection against discrimination.

Women

Domestic violence against women, including wife beating, remains common. Both the Government and civil society encourage women to report abuses such as rape and spousal abuse to the police; however, longstanding social and cultural values inhibit victims from doing so, and such reports remain rare, according to the media. Nevertheless, reporting of such crimes to police has increased somewhat, and the media increasingly report their occurrence. Women’s organizations are seeking legislation to establish a special family court to address crimes of domestic violence and abuse.

Violence against women has been the subject of extensive public service media coverage in both government- and opposition- controlled media. In December 1998, the Parliament revised the Penal Code, widening the scope of the concept of sexual abuse and strengthening penalties.

Despite constitutional prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continues. Although they often are paid less than men for comparable work, women are making modest inroads in the professions. However, some employers claim that they prefer to hire men.

The Constitution prohibits discrimination against women in inheritance, family, and custody matters. However, largely because of illiteracy, most women are unaware of their rights. Women often are reluctant to seek redress of domestic disputes in the courts. The Organization of Cape Verdean Women alleges disparate treatment in inheritance matters, despite laws calling for equal rights.

Children

The Government prepared studies of social policy priorities and legal rights for children and adolescents, and the Cape Verdean Institute for Children was restructured in accordance with norms established in the Convention on the Rights of the Child to implement its obligations under the Convention. The Government has extended free mandatory education to 6 years of primary school for all children. Normally, it covers children age 6 to 12. According to the latest UNICEF figures, attendance is approximately 97 percent for children. Attendance by boys is less than one percent more than attendance by girls. The Government also seeks to reduce infant mortality and disease, combat drug and alcohol abuse, and discourage teenage pregnancy; however, progress has been slow.

Child abuse and mistreatment, sexual violence against children, and juvenile prostitution are continuing problems, exacerbated by chronic poverty, large unplanned families, and traditional high levels of emigration of adult men. The media reports cases of sexual abuse against children and adolescents. The inefficiencies of the judicial system make it difficult for the mass media and government institutions to address the problem.

People with Disabilities
Although the Constitution mandates "special protection" for the aged and disabled, the Government does not require access to public buildings or services for the disabled. There are no official schools or trained teachers for the disabled, although several nongovernmental groups, including an association for the blind, are active.

Religious Minorities

In July three Seventh-Day Adventists, who were tried for the desecration of Catholic churches on Boavista Island, were freed. In August the Attorney General rejected a local prosecutor's dismissal of the case against the four individuals of the "S. Domingos Group," who were accused of desecrating a Catholic church in 1996 (see Section 1.e.). While the MPD has accused supporters of the PAICV of involvement in the crimes and made it an election issue, the perpetrators remained unknown.

More than 20 cases involving the desecration of Catholic churches have been reported to the police over the years. While some cases date from 1975, after 1990 and especially from 1994-95, the incidence has increased. The persons responsible for the desecrations have never been identified, and the topic has remained a controversial electoral issue since the MPD has accused supporters of the main opposition party PAICV of involvement in the crimes. However, to date, the courts have dismissed every formal accusation that has been brought, usually for lack of evidence.

Section 6: Worker Rights

a. The Right of Association

The Constitution provides that workers are legally free to form and to join unions without government authorization or restriction. There are two umbrella union associations: The Council of Free Labor Unions, composed of 11 unions with about 14,000 members; and the National Union of Cape Verde Workers, formed by the former ruling party but operating independently, composed of 14 unions with about 16,000 members. The Government does not interfere with the activities of these organizations, but the National Union of Cape Verde Workers claims that it received less than its share of funds for unions. Both unions suffer from a shortage of funds.

The Constitution provides union members with the right to strike, and the Government respects this right. However, in July and August, the workers of the shipping company Arca Verde made two attempts to strike. The Government invoked a "civil request," under which it has the power, in an emergency or if a strike threatens coverage of basic needs, to name a list of minimum services that a union must continue to provide during any strike. Because of the Government's "civil request," the crew and workers of four of the five ships in the fleet were required to continue working. According to the National Union of Cape Verde Workers, the Government's decision violated the law, since there was no emergency. The union claimed that, under such circumstances, the "minimum services list" that it presented to the Government would have ensured the continuation of essential services of public interest. The union presented the case to the International Confederation of Free Trade Unions, which in August filed a complaint against the Government with the International Labor Organization (ILO). The law requires an employer to either reinstate a worker fired unjustly or to provide financial compensation. This law is enforced in practice.
There were three legal strikes. In June telecommunications workers went on a 2-day strike, demanding a salary increase. In July National Institute of Rural Engineering and Forests workers went on strike for 2 days demanding that their contractual situation be solved. Radio and television workers went on a 2-day strike (October 14-15) over the revision of their working conditions.

The Government was invited by the ILO to contest the case presented by the labor union UNTAC-CS regarding the arrest of two of its activists during a demonstration 1 year ago. The Government contested the case in July. At year's end, the outcome was not known.

Unions are free to affiliate internationally and have ties with African and international trade union organizations.

b. The Right to Organize and Bargain Collectively

The Constitution provides for the right to organize, to operate without hindrance, and to sign collective work contracts. Workers and management in the small private sector, as well as in the public sector, reach agreement through collective bargaining. However, as the country's largest employer, the Government continues to play the dominant role in setting wages. It does not fix wages for the private sector, but salary levels for civil servants provide the basis for wage negotiations in the private sector. There are no collective bargaining agreements.

A 1991 legislative decree bans antiunion discrimination by employers with fines for offenders. No cases were brought to court during the year.

Praia has a new, 30-acre export processing zone, which houses two Portuguese companies and a Cape Verdean-Senegalese joint venture. There are no special laws or exemptions from regular labor laws for such zones.

c. Prohibition of Forced or Compulsory Labor

Forced labor is forbidden by law and is not practiced.

The Government prohibits forced and bonded labor by children, and such practices are not known to occur.

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

The legal minimum age for employment is 14 years. The law prohibits children under the age of 16 from working at night, more than 7 hours per day, or in establishments where toxic products are produced; but the Government rarely enforces the law. In practice the Ministry of Justice and Labor enforces minimum age laws with limited success, and then only in the urban, formal sectors of the economy.

The Government prohibits forced and bonded child labor and such practices are not known to occur (see Section 6.c.).

e. Acceptable Conditions of Work
There are no established minimum wage rates in the private sector. Large urban private employers link their minimum wages to those paid to civil servants. For an entry-level worker, this wage is approximately $120 (11,193 escudos) per month. The majority of jobs pay wages insufficient to provide a worker and family a decent standard of living; therefore, most workers also rely on second jobs, extended family help, and subsistence agriculture.

The maximum legal workweek for adults is 44 hours. While large employers generally respect these regulations, many domestic servants and agricultural laborers work longer hours.

The Director General of Labor conducts periodic inspections to enforce proper labor practices and imposes fines on private enterprises that are not in conformity with the law. However, the Government does not systematically enforce labor laws, and much of the labor force does not enjoy their protection. Few industries employ heavy or dangerous equipment, and work-related accidents are rare.

There is no legal provision for workers to remove themselves from unsafe working conditions without jeopardy to continued employment.

Trafficking in Persons

Illegal trafficking in emigrants to various points in Europe is believed to be a thriving business, and it has become a concern for local authorities. Several notices in the press report that the police have arrested some persons, traffickers as well as victims.