



Philippines

Country Reports on Human Rights Practices - [2004](#)

Released by the Bureau of Democracy, Human Rights, and Labor
February 28, 2005

The Philippines is a democratic republic with an elected president, an elected bicameral legislature, and a fractious, but functioning multiparty system. Although the executive traditionally sets the political agenda, the legislature plays an active role in policy formation. On May 10, approximately 74 percent of registered Filipinos voted in national elections for president and both houses of Congress, and for provincial- and local-level officials. President Gloria Macapagal Arroyo won the presidential election, and her allies took the most seats in Congress. The election was marred by violence, and there were many charges of vote buying. Slow counting of votes also led to serious allegations of electoral fraud and disenfranchisement. The Constitution provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency.

The President is Commander-in-Chief of the Armed Forces of the Philippines (AFP). The Department of National Defense directs the AFP, and the Department of Interior and Local Government has authority over the civilian Philippine National Police (PNP). The AFP, which has primary responsibility for counterinsurgency operations, also has duties in traditional law enforcement efforts, including the pursuit of kidnappers, whose actions remained a chronic criminal problem. Local civilian militias help provide security in certain conflict areas. The civilian authorities generally maintained effective control of the security forces; however, some elements of the security forces, including police, soldiers, and local civilian militias, committed human rights abuses. Since the 1986 overthrow of the Marcos regime, some elements of the armed forces have undertaken extra-constitutional actions, including coup attempts. There continued to be occasional rumors of coup plotting.

The country has a market-based, mixed economy. The service sector accounted for approximately 47 percent of gross domestic product, the industrial sector 33 percent, and agriculture 20 percent. However, agriculture accounted for approximately 37 percent of total employment. Overseas worker remittances, estimated at more than \$7.6 billion per year, and tourism were important sources of foreign exchange. The population is estimated at 84 million, with an annual growth rate of 2.36 percent. According to the most recent Family Income and Expenditure Survey, the richest 30 percent of families earned 66.3 percent of national income, while the poorest 30 percent received approximately 8 percent. Approximately 40 percent of the population lived beneath the poverty threshold of \$255 per year. Poverty was more severe in rural areas, with an estimated 49 percent of the rural population unable to meet basic needs. Environmental problems include rapid deforestation, damage to coral reefs and fish stocks, and significant water and air pollution.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Some elements of the security services were responsible for arbitrary, unlawful, and, in some cases, extrajudicial killings; disappearances; torture; and arbitrary arrest and detention. The physical abuse of suspects and detainees remained a problem, as did police, prosecutorial, and judicial corruption. As in past years, the constitutionally mandated Commission on Human Rights (CHR) described the PNP as the worst abuser of human rights. Police and local government leaders at times appeared to sanction extrajudicial killings and vigilantism as expedient means of fighting crime and terrorism. Prison conditions were harsh. Judges and prosecutors remained poorly paid, overburdened, and susceptible to corruption and the influence of the powerful; they often failed to provide due process and equal justice. Long delays in trials were common. The Supreme Court undertook efforts to ensure speedier trials and to sanction judicial malfeasance, and is in the midst of a 5-year program to increase judicial branch efficiency and raise public confidence in the judiciary. Despite efforts by reformist leaders in all three branches of the Government to strengthen the rule of law and the protection of human rights, a pervasive weakness in the rule of law contributed to a widely held belief that official justice is beyond reach. Some local military and police forces harassed human rights activists. Violence against women and abuse of children continued to be problems. Societal discrimination against Muslims persisted. The law provides for worker rights, but its implementation and enforcement were not always effective. Child labor continued to be a problem. The use of underage workers in domestic service persisted. Child prostitution continued to be a problem, as did trafficking in women and children.

A long-standing, nationwide Communist insurgency continued to operate in various regions of the country; its military arm, the terrorist New People's Army (NPA), committed numerous human rights violations, including political assassinations, kidnappings, and torture. The small, terrorist Abu Sanyaf Group (ASG) committed some kidnappings and killings of hostages and local residents. The NPA and ASG continued to use children both as soldiers and as noncombatants.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

Police forces and anti-government insurgents committed a number of arbitrary and unlawful killings. The CHR investigated 130 complaints of killings between January and September, down from 201 complaints for the same period in 2003. The CHR included killings by anti-government insurgents in its investigations, though the majority of the cases involved the security forces and local officials. The nongovernment organization (NGO) Task Force Detainees of the Philippines (TFDP) documented six instances of summary executions of civilians by government forces and insurgents through June, the same number of cases as last year; however, the number of victims--eight, is two more than for the same period in 2003.

In combating criminal organizations, security forces sometimes resorted to the summary execution of suspects, or "salvaging." Police and military spokesmen at times explained these killings as the unavoidable result of a shoot-out with suspects or escapees. Statements by various local government officials have condoned extrajudicial killings as an acceptable means to fight crime. The CHR suspected PNP members in a majority of the human rights violations involving deaths that it investigated through June.

On November 16, security forces fired into a crowd of striking workers at a sugar plantation in Tarlac Province, killing an estimated 12 persons and wounding more than 100. Two children were asphyxiated by tear gas used as a crowd-control measure. The Government condemned the killings, and the PNP removed the regional and provincial police chiefs. At year's end, investigations of the incident were underway.

Summary killings by vigilante groups continued to rise in Davao City, Mindanao, where the mayor was alleged to be linked to the vigilantes. Most of the victims were suspected of involvement in illegal drug trade or other criminal activities. According to TFDP, 67 suspected criminals were killed in Davao between January and August, though it is unclear how many of these deaths may be the result of common crime, as opposed to vigilante-style slayings. No witnesses have come forth to testify in any of these killings.

On August 24, two gunmen on motorcycles shot and killed a well known human rights activist, Jacinto "Rashid" Manahan, on a street in Davao. National media decried the killing, which many news sources ascribed to the vigilantes alleged to be responsible for other killings in Davao during the year.

After waiting for over 2 years for family members to claim the remains of 49 slain persons, authorities in Zamboanga, Mindanao, decided to bury these victims of various execution-style killings. Residents said that no one would come forward to talk to the authorities about the remains for fear of reprisal from police, soldiers, or vigilante groups all suspected by the local citizens to have been involved in these murders.

The April 2003 Mindoro Oriental case of abduction and killing of two members of a team of human rights advocates, allegedly by AFP soldiers, resulted in no charges. A joint investigation by the National Bureau of Investigation (NBI) and Department of Justice (DOJ) resulted in no charges against the head of the army unit assigned to maintain peace and order in the region, Colonel Jovito S. Palparan, Jr. Palparan subsequently was promoted to brigadier general, although the CHR, which has non binding authority to clear on military promotions, withdrew its clearance on his promotion.

In February, three human rights workers were allegedly killed by the military in Mindoro Oriental. Also in February, another similar killing was reported in Mindoro Occidental.

In recent years, there have been deaths as a result of military hazing (see Section 1.c.). On June 16, a PNP cadet died allegedly from maltreatment while on training. His family requested an investigation by the NBI, but, by year's end, no investigation had been launched.

Government forces killed a number of civilians during domestic conflicts with the Moro Islamic Liberation Front (MILF) and the terrorist groups ASG and NPA (see Section 1.g.).

Journalists were also targets for murder. During the year, 10 journalists were killed in work-related slayings according to the Criminal Investigation and Detection Group Task Force "Newsmen." No one was convicted in these cases during the year, nor in the more than 50 other journalist killings since 1988 (see Section 2.a.).

On June 7, at least 10 armed men shot and killed the police chief of Angat, Bulacan, in an ambush. The NPA claimed responsibility for the attack, stating that its assassins had killed the police chief because of his "anti-revolutionary operations" and for leading several operations against the NPA and monitoring the movement of rebels in Angat.

According to the PNP, there were 192 incidents of election related violence between January 1 and May 26, resulting in 121 deaths and 208 injuries, fewer violent instances than the last election year, 2001, but more casualties, including a higher number of candidates who were victims. The pre-election period was more violent than election day or the post-election period. In general, violent activity took place in connection with local level contests, and stemmed from long standing rivalries. Observers

noted more violence in Mindanao than the rest of the country, ranging from pre-election intimidation to killings on election day. While the NPA was often mentioned as a security threat during the campaign period, there were few reports of NPA-related violence.

Judges continued to be assaulted and killed in the line of duty. During the year, three judges were murdered. Two of the cases remained under investigation, and criminal charges were filed in the third case. A feud between two indigenous tribes appeared to be the motive in the latter case. As of September, there were nine outstanding cases of the killing of judges pending--five still under investigation and four already filed in court.

There were no developments in the 2002 bombing case in Datu Piang, Mindanao.

In August, as a confidence-building measure to facilitate possible government-MILF peace talks, the Government dropped criminal charges against 185 MILF leaders and members for the 2003 Davao airport and seaport bombings. The Government continued to hold in jail five MILF members whom it believed were directly involved in the bombing.

The terrorist ASG continued to kidnap and torture civilians and (see Section 1.b.). Unlike last year, there were no reports of beheadings of civilians.

Communist insurgents, mainly from the NPA, killed political figures, military and police officers, and civilians, including suspected military and police informers and foreign tourists. Peace negotiations between the Government and the political arm of the Communist Party, the National Democratic Front (NDF), made no significant progress.

b. Disappearance

Government forces were believed to be responsible for disappearances. The domestic NGO Families of Victims of Involuntary Disappearances (FIND) reported 18 disappearances between January 1 and September 8, 3 fewer than in the full year of 2003. FIND suspected government security forces in each of these cases. As of September 8, 8 of the victims had been found alive in detention, while 10 remained missing.

The courts and police failed to address adequately complaints of victims' families concerning past disappearances in which government security forces were suspected. Disappearance itself is not a crime under the law; evidence of a kidnapping or killing is required in order for charges to be filed. FIND and Amnesty International's (AI) Manila office continued to support the efforts of victims' families to press charges; however, in most cases, evidence and documentation were unavailable. Convictions were rare, and FIND reported that only 14 cases were pending in court at year's end. Judicial inaction on the vast majority of disappearances contributed to a climate of impunity that continued to undermine public confidence in the justice system.

In July, authorities arrested Ibno Alih Ordonez, a suspected commander of the terrorist ASG, on charges of kidnapping dozens of people, some of whom were tortured to death. The Government had offered a \$17,900 (P1 million) bounty for his capture.

On August 18, 10 armed men reportedly abducted 3 members of the left-wing political party, Bayan Muna, in Manila. Bystanders reportedly were informed that the incident was related to an operation against suspected bank robbers. The local police station had no record of arrested persons. As of September 8, efforts to locate the missing victims had been unsuccessful. FIND believes the Intelligence Service of the Armed Forces of the Philippines (ISAFP) was responsible for the incident.

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

The Constitution prohibits torture, and evidence obtained through its use is inadmissible in court; however, members of the security forces and police routinely abused and sometimes tortured suspects and detainees. The CHR provides the police with mandatory human rights training, including primers on the rights of suspects, and higher level PNP officials appeared receptive to respecting the human rights of detainees; however, rank-and-file awareness of the rights of detainees remained inadequate.

The TFDP stated that torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation reportedly included striking detainees and threatening them with guns. Less common forms included the placing of plastic bags over heads to deprive detainees of air. The TFDP reported that arresting officers often carried out such beatings in the early stages of detention.

Within the AFP, the CHR observed greater sensitivity to the need to prevent human rights violations. CHR is required to certify that any officer being considered for promotion does not have a history of human rights violations (see Section 4); however, a negative CHR finding does not preclude promotion. The CHR also vets PNP officers at the senior superintendent level (equivalent to full colonel). Nevertheless, abuses still occurred. Human rights activists complained of abuses by security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, members of the AFP beat ASG suspects.

According to the TFDP, members of the AFP held a 50-year-old resident of Parang, Maguindanao, naked in a secluded room where they beat, applied electric shock, and threatened to maim and kill him while attempting to extract a confession of

involvement in the January 4 bombing there.

From January to June, the TFDP reported 8 cases of torture, involving 21 victims, down from 11 cases for the same period last year.

On November 16, police fired into a crowd of striking sugar plantation workers, killing an estimated 12 and wounding more than 100 (see Section 1.a.).

Prisons frequently lacked basic infrastructure, and conditions were harsh. Provincial jails and prisons were overcrowded, had limited exercise and sanitary facilities, and provided prisoners with an inadequate diet. The Government reported that jails in the metropolitan Manila area were operating at 323 percent of capacity. The intensified campaign against illegal drugs caused a significant upsurge in the inmate population, and only 3.5 percent of detainees were able to post bail. Administrators budgeted a daily subsistence allowance of about \$0.63 (P35) per prisoner. Prison inmates often depended on their families for food because of the insufficient subsistence allowance and the need to bribe guards to receive food rations.

As a result of the overcrowding, some inmates took turns sleeping, and others slept on their feet. The slow judicial process exacerbated the problem. Some prison wardens reportedly allowed wives or children to move in with inmates or stay in the prison compound because they could help feed the prisoners. Lack of potable water and poor ventilation continued to cause health problems in jails.

According to Department of Interior and Local Government records, there were an estimated 57,824 inmates in overcrowded detention centers nationwide.

According to regulation, male and female inmates are to be held in separate facilities, and, in national prisons, overseen by guards of the same sex; however, there have been anecdotal reports that these regulations were not uniformly enforced. In provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children, in some instances, they were held in facilities not fully segregated from adult male inmates. In Bureau of Immigration (BI) detention facilities, male and female inmates were segregated by sex, but male guards oversaw both sexes.

There were reports of widespread corruption among guards. Guards demanded that prisoners pay to receive food, to use sanitary facilities, and to avoid beatings by other prisoners. Jail administrators reportedly delegated to senior inmates authority to maintain order. The CHR and TFDP reported that beatings by prison guards and other inmates were common but that prisoners, fearing retaliation, refused to lodge complaints. Corruption appeared to be a problem at higher levels of authority within the prison system as well. Favored inmates reportedly enjoyed access to outside contacts, enabling them to have access to prostitutes and drugs.

There were reports that guards abused prisoners. In 2001, AI reported that women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Victims often were afraid to report incidents (see Section 5). Some detainees at BI detention centers reportedly gained release by making cash payments to guards.

Through December 15, the PNP recorded a total of 35 successful prison escapes encompassing 115 prisoners. Of the escapees, 54 remained at large, while 61 were recaptured. Police blamed the escapes on lenient security and the poor quality of detention facilities.

International monitoring groups, including the ICRC, were allowed free access to jails and prisons.

d. Arbitrary Arrest or Detention

The Constitution requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, in a number of cases, police arrested and detained citizens arbitrarily. From January through July, the TFDP documented 38 cases of illegal arrest and detention involving 310 victims.

Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence or death (when evidence is strong), the right to bail. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, depending on the seriousness of the crime. Due to the slow judicial process, lengthy pretrial detention remained a problem (see Section 1.e.).

The 113,000-member PNP has deep-rooted institutional deficiencies. The National Police Directorate for Investigation and Detective Management reported that 69 erring policemen were dismissed from service from January through October. Of the 1,343 administrative cases filed against PNP officers and personnel, 638 were resolved, 352 were still under preliminary investigation, and 353 underwent summary hearings.

On July 5, five men belonging to the 80th Infantry Battalion of the Philippine Army but dressed in civilian clothing arrested a community organizer in Montalban, Rizal Province. Four days later, a Quick Response Team mission headed by FIND located

him at the Montalban Police Station. The arrestee, who had never been charged with a crime, was released after the response team arrived.

Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners; estimates usually ranged from a few to over 200. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons on these lists have not been convicted (see Section 1.e.).

The NPA, as well as some Islamic insurgent groups, were responsible for a number of arbitrary detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and other persons for "crimes against the people" (see Section 1.e.).

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes venality undermined the commitment of some government employees to ensure due process and equal justice. The result was impunity for some wealthy and influential offenders and widespread skepticism that the judicial process would produce fair outcomes.

Judges continued to be assaulted and killed in the line of duty (see Section 1.a.).

The national court system consists of four levels: Local and regional trial courts; a national Court of Appeals divided into 17 divisions; a 15-member Supreme Court; and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The "Sandiganbayan," the Government's anticorruption court, hears criminal cases brought against senior officials. A Shari'a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces.

The Constitution provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, although poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the Public Attorney's Office (PAO), but their workload was large and resources were scarce. The PAO provides legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

According to the Constitution, cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for the Court of Appeals; and 3 months for lower courts. However, these time limits are not mandatory, and, in effect, there are no time limits for trials.

The judicial system was unable to ensure expeditious trials for detained persons. The average trial takes about 2 years. Progress is impeded due to lengthy delays between hearings and the fact that trials are not heard all at once, but in short sessions over time and as witnesses become available. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Of the total 2,130 trial court judgeships (including Shari'a courts), 688 or 32 percent were vacant, slightly lower than last year's 717 vacancies or 34 percent. Courts in Mindanao and other poorer provinces had higher vacancy rates than the national average. Shari'a court positions were particularly difficult to fill because of the requirement that applicants be members of both the Shari'a Bar and the Integrated Bar.

Although Shari'a courts do not have criminal jurisdiction, the MILF asserted that its Islamic law courts do. The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people." The NPA executed some of these "defendants."

International and domestic NGOs criticized many court proceedings that resulted in death sentences, stating that the judicial system did not ensure the rights of defendants to due process and legal representation. At times, defendants in death penalty cases lacked adequate legal representation at the time of arrest, indictment, or trial. By law, the Supreme Court reviews all death sentences. The President lifted a 3-year moratorium on the application of the death sentence in July 2003; however, no executions have been carried out.

Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners; estimates usually ranged from a few to over 200. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons on these lists have not been convicted. Some face murder, kidnapping, and other serious charges, while others were charged with lesser offenses such as possession of drugs or firearms. Some NGOs asserted that it was frequent practice to make politically motivated arrests of persons for common crimes and to continue to detain them after their sentences expired. Often it was difficult to distinguish between persons possibly incarcerated for political reasons and those for common crimes. The Government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it did not consider the persons listed to be political detainees or prisoners. As a goodwill gesture to the Communist Party of the Philippines and the NDF, the Government released 10 persons whom NGOs claimed were political prisoners in May, in addition to three female prisoners released earlier. The Government has publicly committed itself to releasing more

prisoners on this list. Through July, the Office of the President returned to the Board of Pardons and Parole 58 requests for presidential action, with instructions to restudy the cases. Of these, 31 were granted partial or full pardon.

The Government permitted access to alleged political prisoners by international humanitarian organizations.

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

The Constitution provides that a judge may issue search warrants on a finding of probable cause; however, while the Government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges declared evidence obtained illegally to be inadmissible.

The Government generally respected the privacy of its citizens; however, leaders of Communist organizations complained of what they described as a pattern of surveillance on their activities.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year, although to a lesser extent than in previous years. A few pockets of urban informal settlers were forcibly relocated temporarily while resettlement projects were being developed and implemented in Metro Manila. The law provides certain protections for squatters; eviction was often difficult, especially because politicians recognized squatters' voting power. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters targeted by displacement was limited.

Although the Government itself did not use forced conscription, there were reports of forced conscription in southern Mindanao into local indigenous peoples' paramilitary units with links to the AFP. The AFP denied these allegations. Reports of abuses by vigilante groups in southern Mindanao continued throughout the year. Some suspected that local government officials or members of the armed forces supported the vigilante groups.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Some citizens groups complained that the AFP, in confronting the terrorist ASG, the NPA, and the separatist MILF, illegally detained citizens, torched houses, displaced residents, and shelled villages suspected of being ASG strongholds. The AFP defended its actions (see Sections 1.a., 1.d., and 2.d.).

In February, the CHR conducted forensic examinations of persons killed in reported exchanges of gunfire in the Western Police District in Metro Manila. The examinations indicated that some of these persons had been shot in the back. Based on these findings, the CHR concluded that police in the Western District had committed extrajudicial killings.

In March, NPA fighters ambushed PNP officers; the PNP unit allegedly returned fire without regard to three civilians who were caught in the crossfire. The three were killed during the incident.

In November, an interagency human rights organization fact-finding team concluded that AFP soldiers had executed two teenage boys in Catarman, Northern Samar. The Army claimed that the boys had been caught in crossfire.

In April, two minors were shot and injured when the National Anti-Kidnapping Task Force mistook them for rebels. The two girls were passengers in a car driven by another teenager that turned back from a police checkpoint rather than try to pass through.

According to the Department of Social Welfare and Development (DSWD), some persons displaced from conflict areas in Mindanao were able to rehabilitate and reconstruct their homes with aid from DSWD and local governments. Others, whose communities were destroyed by the armed conflict, were resettled.

The ASG kidnapped and tortured civilians during the year. There were reports that the ASG killed citizens whom it suspected of being government informants. Clashes between the AFP and ASG occurred throughout the year, mostly in the Zamboanga peninsula and Sulu archipelago.

During the year, the NPA killed political activists, mayors, other civilians, and military and police personnel. The NPA also harassed businesses and burned buses to enforce the collection of "revolutionary taxes." The AFP reported that the NPA killed 91 civilians and attacked 26 private companies from January through August. The NPA continued actively to recruit minors both as combatants and noncombatants (see Section 5).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Several television and radio stations were owned by the State, having been sequestered following the fall of the Marcos regime in 1986. Most print and electronic media were privately owned. The independent media were active and expressed a wide variety of views without restriction. Broadcast and print media were freewheeling and often criticized for lacking rigorous journalistic ethics. They tended to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom were close associates of present or past high-level political officials. Special interests often used bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions.

Journalists continued to be the victims of summary killings. In the first 8 months of the year, eight journalists were killed, the highest figure in 20 years. Murder charges have been filed in four of the cases, while the rest remained under investigation. According to a special task force formed by the President this year, of the 24 murder cases involving journalists brought since 1984, only 2 resulted in convictions, 4 were dismissed, while 18 remained pending. The National Union of Journalists accused the police and the Government of failing adequately to investigate these killings and of subjecting journalists to harassment and surveillance.

On July 31, three unidentified gunmen shot and killed Ilocos Norte radio commentator, Roger Mariano. Prior to his killing, Mariano had exposed alleged fraud at the local electric cooperative and criticized illegal gambling operations. The case remained under investigation, with no arrests made.

On August 5, in Batangas, a lone gunman shot and killed a newspaper writer who had discussed the murder and rape cases of a local "barangay" (neighborhood) chairman in his column. On September 2, police arrested the chairman on murder charges. The chairman's nephew, who was the suspected gunman, remained at large.

On August 13, only 1 day after the slaying of a Laguna journalist, Mindanao-based radio commentator, Edward Balida, was shot at a public market while parking his motorcycle. Balida was a vocal supporter of the Government's anti-drug campaign.

On September 13, a former policeman in Western Mindanao, a suspect in the 2002 killing of journalist Edgar Demalerio, surrendered to authorities after 2 weeks of negotiations. On his daily radio program, Demalerio had repeatedly criticized local police officers for their failure to curb the illegal drug trade, gambling, and killings in Pagadian City and Zamboanga.

By year's end, there had been no convictions in any of the cases of journalists killed in the last 3 years.

The Government did not restrict Internet use.

School administrators reportedly warned several student journalists against publishing critical commentaries and articles, and students on some campuses complained of military surveillance. The Government did not otherwise interfere with academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

Although the law requires that groups request a permit to hold a rally, the Government at times followed an unwritten policy of allowing rallies to occur without requiring the filing of a request.

On November 16, police fired into a crowd of striking sugar plantation workers, killing an estimated 12 and wounding more than 100 (see Section 1.a.).

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Although Christianity, particularly Roman Catholicism, was the predominant religion, there is no state religion, and under the Constitution church and State are separate.

Muslims were the largest minority religious group in the country. There was widespread debate over the exact size of the Muslim population, as some officials and observers claimed that security concerns in western Mindanao prevented census takers from conducting accurate counts outside urban areas. Estimates ranged from 3.9 million to 7 million, or 5 to 9 percent of the population. Muslims resided principally in Mindanao and nearby islands, but there were Muslim communities throughout the country.

Historically, Muslims have been marginalized by the Christian majority. The national culture, with its emphasis on familial, tribal, and regional loyalties, creates informal barriers whereby access to jobs or resources is provided first to those of one's own family or group network. Muslims reported difficulty renting rooms in boarding houses or being hired for retail work if they used their real names or wore distinctive Muslim dress. As a result, some Muslims used Christian pseudonyms and did not wear distinctive

dress when applying for housing or jobs.

The Government's campaign against the terrorist ASG has led some human rights NGOs to accuse the police and military of unfairly targeting Muslims for arrest and detention. However, most observers believed that discrimination against Muslims was grounded on cultural differences, not religious beliefs or practices. There also were reports of Muslim discrimination against Christians in areas where Muslims were the majority.

Intermittent government efforts to integrate Muslims into political and economic society have achieved only limited success. Many Muslims claimed that they continued to be underrepresented in senior civilian and military positions and cited the lack of proportional Muslim representation in national government institutions (see Section 3). Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development. Poverty levels in the Autonomous Region in Muslim Mindanao (ARMM) were roughly twice as high as the national average, with per capita income of \$274 (P15,344) per year.

The teaching of religious classes in public schools was permitted with the written consent of parents, provided that there was no cost to the Government. The Department of Education required schools to ensure the protection of the religious rights of students. These measures included allowing Muslim girls to wear their head coverings ("hijab") and not requiring them to wear shorts during physical education classes.

The Commission on Higher Education, a government agency that oversees public and private higher education in the Philippines, offered study grants for some former Muslim separatists who could not afford to study in college due to financial constraints. The program aimed to contribute to peace and order by upgrading the education of these individuals.

In August, the Department of Education and a team of Muslim educators approved a new curriculum for public elementary schools in the ARMM and privately run madrassas. The curriculum was designed to integrate the madrassas into the mainstream educational system by teaching English, Filipino, and other mainstream subjects, in addition to courses in Arabic, "Bangsamoro" (a term describing the various Philippine Muslim groups) history, and Islamic studies. The Department of Education estimated that approximately 100,000 students attended madrassas nationwide.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

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

The Constitution provides for these rights, and the Government generally respected them in practice. Travel abroad was limited only in rare circumstances, such as when a citizen has a pending court case. Government authorities discouraged travel by vulnerable workers to areas in which they face personal risk (see Section 5).

In July, the Government banned all Filipinos from traveling to Iraq to work as contractors. The Philippine Overseas Employment Administration (POEA) sought to limit departures for work abroad to persons the POEA certified as qualified for the jobs. More than 8.67 million citizens worked overseas and remitted money home. Such remittances amounted to approximately 9.2 percent of the gross national product.

Forced exile is illegal, and the Government did not use it.

Continuing clashes between the AFP and the MILF, NPA, and ASG have displaced thousands of persons within the country. In June, the Government began building a shelter in Palimbang to help some 700 families, who have been displaced by fighting between AFP and MILF guerrillas in the area. Other agencies, including the U.N. Development Program, the Mindanao Emergency Relief Network, and the Red Cross, provided food and other essential items such as medicine, blankets, mosquito nets, and soap to the 3,000 evacuees.

The country is a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, there is no comprehensive legislation that provides for granting refugee status or asylum. 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. The Refugee Unit in the Department of Justice determined which asylum seekers qualify as refugees; such determinations in practice implemented many of the basic provisions of the 1951 Convention. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and with other humanitarian organizations in assisting refugees. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol and provided it to approximately 2,000 persons during the year.

The Government continued to allow approximately 2,000 former asylum seekers from Vietnam to remain in the country although all had been found not to be refugees under the UNHCR-administered Comprehensive Plan of Action in the 1990s. There was popular support, particularly from the Roman Catholic Church, for allowing permanent residency for those unsuccessful asylum seekers who did not wish to repatriate and were ineligible for resettlement in other countries. The Government has neither forced the repatriation of this group nor granted them permanent asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections that largely were free and fair and held on the basis of universal suffrage.

On May 10, national elections were held for president, senators, representatives, provincial governors, and local government officials. Turnout for the election was high--with approximately 74 percent of eligible voters participating; however, voting was marred by numerous irregularities. From April to July, a consortium of three international NGOs (National Democratic Institute, International Republican Institute, and the International Foundation for Election Systems) performed an election monitoring survey in the country. They concluded that an antiquated voting system, system error, and improper management of registration databases disenfranchised thousands of voters. Widespread reports indicated that local politicians and their supporters continued to engage in vote buying and that conditions were inadequate to ensure that balloting was secret. Observers also received reports of NPA activists imposing "Permission to Campaign" fees on local candidates.

Multiple political parties were able to present candidates for office, raise funds, and mobilize voters. However, parties tended to be personality-driven, dynastic and family influences were strong, and issues generally were less important. Campaign financing, anti-dynasty, and other political party laws and provisions often were not observed.

Election-related violence remained a serious problem (see Section 1.a.).

The May election marked the first time that overseas Filipinos were able to vote. Of the 354,000 registered overseas voters, 230,000 or 65 percent actually voted in 577 precincts worldwide. This represented a small portion of the estimated 8.67 million Filipino overseas workers. The low rate of registration was attributed to lack of information about the procedures, inaccessible registration centers, strict employers who did not allow overseas workers to take a day off, and the requirement that voters execute an affidavit to return to the country to reside within 3 years.

In compliance with the registration residence requirement, the Commission on Elections did not allow first time voters among squatters in urban poor communities to register for the elections unless they could prove that they were bona fide residents of their locale. NGOs estimated that this deprived one million squatters of the right to vote. Among those who did register in squatter communities vote buying was common, and many residents accepted bribes to vote in a certain way or to act as "flying voters," voting in several precincts.

A justifiable public perception of corruption in the executive and legislative branches remained high.

The Constitution provides for a right to information on matters of public concern, and the Supreme Court has affirmed this provision. However, an NGO noted that denial of such information occurred when the information related to an anomaly or irregularity in government transactions. Moreover, much government information was not available electronically and was difficult to retrieve.

There were no restrictions in law or practice on participation by women and members of minorities in politics. Many women, including the President, held positions of leadership and authority. There were 4 women in the 24-seat Senate and 35 women in the 236-seat House of Representatives. There were 5 women in the 23-member Cabinet and 5 female associate justices in the 15-member Supreme Court.

Along with many other citizens, Muslims, in particular, argued that the method of electing senators from a nationwide list favored established political figures from the Manila area, to the disadvantage of Muslims. Election of senators by region would require a constitutional amendment, and many Muslims and members of other groups underrepresented in the national legislature favored such an amendment. There were no Muslim cabinet members and no Muslim senators. There were 10 Muslim members in the 236-seat House of Representatives, including some elected from Christian majority districts.

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

A large and active group of human rights NGOs generally operated without government interference, investigating and publishing their findings on human rights cases. Most government officials, including those of the CHR, were responsive to NGO views. Many domestic NGOs were critical of the Government's human rights record; these NGOs also criticized previous governments' human rights records. While acknowledging that respect for human rights has improved under President Macapagal-Arroyo, many NGOs criticized the Government for being overzealous in its efforts to defeat the various insurgencies in the country. These groups cited indiscriminate arrests, torture of suspects, and the shelling of civilian areas the AFP suspected of harboring insurgents.

Some NGOs have expressed concern over what they perceived as hostile government rhetoric toward human rights activists. NGOs also have expressed concerns over statements by various local government officials that condoned extrajudicial killings as an acceptable means to fight crime. A well known human rights activist, Jacinto "Rashid" Manahan, was the victim of an apparent extrajudicial killing in Davao in August (see Section 1.a.).

Member organizations of the Philippine Alliance of Human Rights Advocates, a leading NGO network, monitored human rights problems and sought redress through their contacts with government agencies, the Congress, and the CHR. Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from the area in which incidents under investigation took place.

The CHR was created in 1987 pursuant to the 1987 Constitution. It replaced the Presidential Committee on Human Rights. The CHR is an independent agency mandated to protect and promote human rights. It is empowered to investigate all human rights violations and to monitor the Government's compliance with international human rights treaty obligations. The CHR has non-binding authority to clear on military promotions. The Commission has a chairperson and four members. CHR monitoring and investigating continued to be hamstrung by insufficient resources. Approximately one-third of the country's 42,000 barangays had Human Rights Action Centers, which coordinated with CHR regional offices; however, the CHR's regional and subregional offices remained understaffed and underfunded. The CHR was allocated \$3.75 million (P210 million) for the year, up 7 percent from 2003.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

Women

Violence against women, both in and out of the home, remained a serious problem. The law does not specifically address the problem of domestic violence; complaints are filed under the charge of "physical injury." The Government did not disaggregate statistics to indicate the number of physical injury cases that result from domestic violence. During the year, the National Commission on the Role of Filipino Women compiled and published the following statistics: The PNP reported 2,381 cases of wife battering and physical injuries to women in the first 6 months of the year. This number appeared to underreport significantly the level of violence against women in the country. A survey done in 2003 by the NGO, Social Weather Station, resulted in the following admissions by male respondents: 12 percent admitted having physically harmed women (39 percent of these respondents indicated violence against their wife, 15 percent against their girlfriend, and 4 percent against their partner). The same survey queried women on why they didn't report violence. The reasons most cited were: Embarrassment; not knowing how or to whom to report; belief that nothing would be done; and believing it was too small of a thing.

The PNP and the Department of Social Welfare and Development (DSWD) both maintained women's help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Many PNP stations included female officers.

Rape continued to be a serious problem. According to the latest statistics from the Center for Women's Resources, from January to September 2003, there were 3,913 rape cases. Police statistics showed a decline in rape cases during the period from January to October from 1,159 in 2003 to 868. There were reports of rape and sexual abuse of women in police or protective custody. These often involved women from marginalized groups, such as suspected prostitutes, drug users, and lower income individuals arrested for minor crimes.

The law provides for the death penalty in cases of rape. Although spousal rape and abuse also are illegal, enforcement was ineffective. Some NGOs argued that courts' imposition of death sentences for rape convictions inhibited some victims, particularly relatives of the accused, from pressing charges.

Prostitution is illegal, but was a widespread problem. Many women suffered exposure to violence through their recruitment, often through deception, into prostitution (see Section 5, Trafficking). Penalties for prostitution are light, but detained prostitutes were subjected to administrative indignities and extortion. The DSWD continued to provide temporary shelter and counseling to women engaged in prostitution. Officials believed that this helped only a small percentage of victims. Some local officials condoned a climate of impunity for those who exploited prostitutes. There were no convictions under the provision of the law criminalizing the act of engaging the services of a prostitute.

Sex tourism was a serious problem. Trafficking in women and children for sexual exploitation and forced labor were problems. A 2003 anti-trafficking law outlawed a number of activities specifically related to trafficking and provided stiff penalties for convicted offenders (see Section 5, Trafficking).

Sexual harassment in the workplace was thought to be widespread yet underreported due to victims' fear of losing their jobs. Female employees in special economic zones (SEZs) were particularly at risk; most were economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry worked on 3- to 5-month contracts and were reluctant to report sexual harassment for fear their contracts would not be renewed.

The law does not provide for divorce, although the courts generally recognize the legality of divorces obtained in other countries. The Government recognizes religious annulment, but the process can be costly, which precludes annulment as an option for many women. Many lower income couples simply separated informally without severing their marital ties. The Family Code

provides that in child custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of 7 are placed in the care of the mother unless there is a court order to the contrary. Children over the age of 7 normally also remained with the mother, although the father could dispute custody through the courts.

In law, but not always in practice, women have most of the rights and protections accorded to men. Women continued to face some discrimination in employment, despite the fact that more women than men entered secondary and higher education. Unemployment rates for women were consistently higher than for men. In August, the Asian Development Bank released a gender assessment report that highlighted unemployment of women and poor family planning as major contributors to poverty in the country.

The National Commission on the Role of Filipino Women, composed of 10 government officials and 13 NGO leaders appointed by the President, acted as an oversight body whose goal is to press for effective implementation of programs benefiting women.

Children

The Government devoted considerable resources to the education, welfare, and development of children. The Department of Education had the largest budget of any cabinet department. Nevertheless, children faced serious problems.

Elementary and secondary education is free, but the quality of education remained poor due in part to inadequate resources. During the year, according to Department of Education figures, the annual per pupil expenditure for basic education was \$108 (P6,021). Congress cited fiscal constraints in explanation. The Department of Education reported that it needs \$2.22 billion (P124.7 billion), but reportedly was allotted \$1.95 billion (P109.5 billion) (12.7 percent of the national budget) for the year. The Department of Education estimated that 25 percent of students drop out between grades one and three, and 33 percent between grades one and six. Nearly 60 percent of children who start school do not complete grade 10. The situation is even worse for indigenous children (see Section 5, Indigenous People).

According to government reports, 68.3 percent of children are well nourished, and 64 percent were fully immunized. The child mortality rate was 48 out of 1,000 children under age 5. In 2000, an NGO estimated that 30 to 40 percent of preschool children in the five-province Autonomous Region in Muslim Mindanao suffered from malnutrition. Most of the malnourished children were in villages in Maguindanao, Lanao del Sur, and Tawi-Tawi Provinces. According to the latest UNICEF data, at the end of 2001, nationwide 30.6 percent of children under age 5 were moderately or severely underweight.

Child abuse remained a problem. DSWD offices served 7,847 victims of child abuse from January to September, 71 percent of them were girls. Some 53 percent of the girls were victims of sexual abuse, up from 44 percent last year, while the majority of the boys had been abandoned or neglected. Several cities ran crisis centers for abused women and children. The problem of foreign pedophiles continued to be reported in the press, and the Government continued to prosecute accused pedophiles. Children also were victims of police abuse while in detention for committing minor crimes. In July, the University of the Philippines Center for Integrative and Development Studies began an appraisal of child pornography in the country. Two years ago, a series of articles in the newspaper People's Journal identified the country as a leading producer of child pornographic materials, particularly on the Internet.

Child prostitution continued to be a serious problem (see Section 5, Trafficking).

Children were targeted for recruitment as combatants and noncombatants by the NPA and ASG. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombatant duties; however, there were reports that the NPA continued to use minors in combat. An official from the Office of the Presidential Advisor on the Peace Process estimated that children made up as much as 19 percent of the NPA's fighting force. The Council for Welfare of Children, in a July report, estimated that children constituted some 13-18 percent of the armed rebel combatants. In the last several years, the AFP on numerous occasions captured or killed NPA fighters who turned out to be minors.

The ASG also recruited teenagers to fight and participate in criminal activities. There were reports that a significant number of ASG members staffing the groups' camps were teenagers. The AFP said that some Islamic schools in Mindanao served as fronts to indoctrinate children and that the ASG used children as couriers and spies.

According to UNICEF and International Labor Organization (ILO) studies, approximately 2 million children were exposed to hazardous working environments, such as in quarries, mines, and at docksides (see Section 6.d.).

The Government estimated that there were at least 22,000 street children nationwide, although some NGOs believed the number to be much higher. Welfare officials believed that the number increased as a result of widespread unemployment in rural areas. Many street children appeared to be abandoned and engaged in scavenging or begging.

A variety of national executive orders and laws provide for the welfare and protection of children. Police stations have child and youth relations officers to ensure that child suspects are treated appropriately. However, the procedural safeguards were often ignored in practice. Many child suspects were detained for extended periods without access to social workers and lawyers and were vulnerable to torture and other ill treatment. There were also reports that many children detained in jails appeared to have

been arrested without warrants.

A number of NGOs actively promoted children's rights.

Trafficking in Persons

Trafficking in persons is prohibited under a comprehensive anti trafficking law passed in 2003, which defines several activities related to trafficking as illegal and imposes stiff penalties--up to life imprisonment--for convicted offenders. Nonetheless, trafficking remained a problem in the country. The first trial under the new Trafficking Law began in January and was still underway at year's end. Several other cases were pending, but trials had not yet begun.

Although the Government investigated several trafficking-related cases under the old laws, its efforts were hampered by resource constraints. In August, four prosecutors were assigned to focus on trafficking cases and to complete preliminary investigations within 60 days. The principal investigative agencies were the National Bureau of Intelligence, the Bureau of Immigration, and the PNP's Criminal Investigation and Detection Group. The Government cooperated with international investigations of trafficking. Some high profile cases involved syndicates that trafficked women to neighboring countries. Several cases involving women trafficked to Malaysia resulted in notable arrests in August and September.

The country was a source, transit, and destination country for internationally trafficked persons. Internal trafficking was also a problem. Reliable estimates on the number of individuals trafficked were not available. The most serious problem appeared to be the trafficking of women across international borders to destinations in Asia (especially Japan), Europe, the Middle East, and North America for purposes of sexual exploitation. Organized criminal gangs typically trafficked persons from China through the country to other destinations, although occasionally the country was the final destination.

Both adults and children were trafficked domestically from poor, rural areas in the southern and central parts of the country to major urban centers, especially metro Manila and other cities on Luzon. A significant percentage of the victims of internal trafficking were from Mindanao and were fleeing the severe poverty and violence of their home areas. The Visayan Islands were also a source of trafficking. Women were far more at risk to be victims of trafficking than men, and girls were more at risk than boys.

NGOs estimated that approximately 60,000 children were involved in the commercial sex industry. Most of these children were girls, and nearly all had dropped out of school. These children come from very poor families with unemployed or irregularly employed parents.

The Virlanie Foundation, a local child protection NGO, estimated that there were at least 20,000 child prostitutes in the country, most in the Metro Manila area. It offered housing, training, and counseling services to child prostitutes. An ILO program, with the goal of removing 1,200 children from the commercial sex industry, was underway.

Traffickers targeted persons seeking overseas employment. Most recruits were females ages 15 to 22 from poor farming families. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted persons from their own hometowns. The primary method used to approach victims was the promise of a respectable and lucrative job.

There was anecdotal evidence that some lower level officials (such as customs officers, border guards, immigration officials, local police, or others) received bribes from traffickers or otherwise facilitated trafficking.

Victims faced health risks, such as sexually transmitted or other infectious diseases, and were vulnerable to beatings, sexual abuse, and humiliation.

The Government devoted significant resources to assist and protect victims. The concept of a trafficked person as a victim rather than a perpetrator was particularly strong. The Government, in conjunction with NGO partners, assisted victims by providing temporary residency status and relief from deportation; shelter; and access to legal, medical, and psychological services.

The DSWD and many private groups have established shelters and rehabilitation centers. DSWD provided economic aid to victims, including residential care. Additional protective services included hotlines for reporting cases and the operation of 24 hour halfway houses in 13 regions of the country to respond to victims. Although the Government provided some funding to domestic and foreign NGOs for services to victims, religious groups, multinational donor agencies, and private foundations typically funded most of the budgets for these NGOs.

The Government rarely deported or charged victims of trafficking with crimes; however, police sometimes charged alleged prostitutes with vagrancy. No reliable statistics indicating whether these individuals were victims of trafficking were available.

Victims may file civil suits or seek legal action against traffickers. Most victims who chose to do so filed charges of illegal recruitment. However, the Government lacked the resources to pursue these cases effectively.

Numerous government agencies and officials, as well as NGOs and international organizations, continued to support public information campaigns against trafficking. The Government supported programs to prevent trafficking, such as the promotion of women's participation in economic decision-making and efforts to keep children in school. The Government provided skills training to women, lessening the need for them to go to urban centers or overseas for employment. However, funding remained limited.

Persons with Disabilities

The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments and for "the rehabilitation, self development, and self-reliance of disabled persons and their integration into the mainstream of society." The Department of Labor and Employment's (DOLE) Bureau of Local Employment (BLE) maintained registers of persons with disabilities indicating their skills and abilities. BLE monitored private and public places of employment for violations of labor standards regarding persons with disabilities and also promoted the establishment of cooperatives and self-employment projects for persons with disabilities.

Estimates of the number of persons with disabilities in the country ranged from 1 million to 3.5 million. Advocates suspected the data were incomplete due to the social stigma attached to persons with disabilities. It was estimated that most persons with disabilities were less than 65 years of age and lived at home with their families. Assisted living centers were understaffed and underfunded.

Advocates for persons with disabilities contended that equal access laws were ineffective because implementing regulations were weak, funding was inadequate, and government programs were inadequately focused on integration. Many public buildings, particularly older ones, lacked functioning elevators. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Government efforts to improve access to transportation for persons with disabilities have been halting. Only one of Manila's light rail lines was wheelchair-accessible, and many stops had out-of-service elevators. Buses lacked wheelchair lifts, and there were reports of drivers who failed to stop for passengers in wheelchairs. A limited number of sidewalks had wheelchair ramps, but garbage cans and street vendors often blocked access. Many of the sidewalk wheelchair ramps were crumbling or too steep. The situation was worse in many smaller cities and towns.

Indigenous People

Indigenous people live throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They account for approximately 16 percent of the national population. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children suffered from lack of basic services, health, and education.

A report by the Department of Education revealed that indigenous children were falling behind in the quality of education. By one estimate, only 424 of Baguio City's 4,424 elementary graduates met the minimum standards for moving to the next level. An official of the Tebtebba Foundation suggested that indigenous children frequently skipped school as a way to avoid the racial discrimination they faced in the classroom.

Because they inhabit mountainous areas also favored by guerrillas, indigenous people suffered disproportionately from armed conflict. Their lands were often the sites of armed encounters, and various parties to the fighting have recruited many indigenous people.

The 1997 Indigenous Peoples' Rights Act, which was intended to implement constitutional provisions to protect indigenous people, established a National Commission on Indigenous People, which was staffed by tribal members empowered to award certificates of title to lands claimed by indigenous persons in the country. It awarded such "ancestral domain lands" on the basis of communal rather than individual ownership, impeding sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands. The law also assigns indigenous groups the responsibility to preserve forest, watershed, and biodiversity areas in their domains from inappropriate development. Although the Government has been slow to implement the legislation, primarily because of strong opposition from mining and agribusiness interests, some limited progress has been made.

Section 6 Worker Rights

a. The Right of Association

The Constitution and laws provide for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the Government. Unions have the right to form or join federations or other labor groups.

As of September, there were 149 registered labor federations and more than 15,553 private sector unions, compared with

19,928 reported in 2003. The 1.6 million union members represented approximately 4.3 percent of the total workforce of 36.5 million. The number of firms using contractual labor, primarily large employers, continued to grow.

As of September, the Bureau of Labor Relations reported 1,434 public sector unions, compared with 1,358 in 2003. Total public sector union membership was nearly 273,385 up from 247,853 in 2003.

Allegations of intimidation and discrimination in connection with union activities are grounds for review as possible unfair labor practices before the quasi-judicial National Labor Relations Commission (NLRC). However, unions maintained that widespread ignorance of basic standards and rights was a major obstacle to union organization. Before disputes reach the NLRC, the DOLE provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

Unions have the right to affiliate with international trade union confederations and trade secretariats. Two of the largest trade union federations, the Trade Union Congress of the Philippines and the Federation of Free Workers, were affiliated with the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labor, respectively.

The ICFTU alleged that a new union may be registered only if it represents at least 20 percent of workers in a bargaining unit, and that the law requires an excessively high number of unions--10--before a federation can be formed. The ICFTU currently has two complaints pending before the ILO regarding these requirements.

b. The Right to Organize and Bargain Collectively

The Constitution provides for the right to organize and bargain collectively. The Labor Code provides for this right for employees both in the private sector and in government-owned or controlled corporations. A similar right is afforded to most government workers. Between 5-10 percent of the work force was organized. Collective bargaining was freely practiced. The number of workers covered by collective bargaining agreements rose to 270,721 or about 16 percent of union members. There are no special laws or exemptions from regular labor laws in export processing zones.

Subject to certain procedural restrictions, strikes in the private sector are legal; however, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law, the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must be exhausted. The Secretary of Labor and Employment may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the Secretary decides that the industry involved in the strike is vital to national security. For the first 8 months of the year, DOLE reported that there were 33 strikes, 32 percent more than the previous year). Between January and May there had been 11 strikes involving some 2,400 workers.

The Labor Code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to 3 years; however, according to the DOLE, there never has been a conviction under this provision.

Trade union officials reported that underpayment of the minimum wage and the use of contract employees to avoid the payment of required benefits were common practices, including in the government-designated SEZs, where tax benefits were used to encourage the growth of export industries. Dismissal or threatened dismissal of union members also was common, and there were reports that some workers were fired after merely speaking with union organizers. Some companies reportedly offered cash to employees who agreed to identify union organizers and required employees to work overtime in order to disrupt union meetings. Labor groups alleged that companies in the SEZs have used frivolous lawsuits as a means of harassing union leaders.

Labor law applies uniformly throughout the country, including the SEZs; however, local political leaders and officials who govern the SEZs have attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection created further obstacles to the enforcement of workers' rights to organize. Despite objections from the DOLE, local SEZ directors claimed authority to conduct their own inspections as part of the zones' privileges intended by Congress. Hiring often was controlled tightly through SEZ labor centers. In organizing efforts, union successes in the SEZs have been few and marginal. Some mainstream unions avoided a major unionizing effort in the lower wage SEZ industries, such as the garment industry. They considered it unpromising in view of both the organizers' restricted access to the closely guarded zones and the rapid turnover of the young, mainly female staff who worked on short-term contracts in the zones' many electronics and garment factories.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced labor, including forced and compulsory labor by children; however, despite the Government's efforts, there were some reports of forced and compulsory labor, particularly by children, mainly in prostitution, drug trafficking, and other areas of the informal sector (see Sections 5, and 6.d.). The legal minimum age for employment as a domestic worker is 15; however, an estimated 3.7 million children 17 years of age or younger, including many under 15, were so employed, compared with 4 million children reported in last year's survey. A more stringent legal regime and a government program in cooperation with a foreign government may account for part of this decline. Some recruiters reportedly brought girls between the ages of 13

and 17 to work in Manila or Cebu under terms that involved a "loan" advanced to their parents that the children were obliged to repay through their work. The DOLE continued to address the problem of underage workers in family work settings by prosecutions and fines of violators (see Sections 5, and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians, or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 and 18 for such hours and periods of the day as are determined by the Secretary of Labor but forbids the employment of persons under 18 years of age in hazardous or dangerous work. However, child labor remained a problem, and a significant number of children were employed in the informal sector of the urban economy or as unpaid family workers in rural areas--some as bonded laborers (see Section 6.c.). The most recent government survey reported approximately 3.7 million working children, approximately 2.4 million of whom were exposed to hazardous working environments, such as quarries and mines, docksides, and fishing boats.

Most child labor occurred in the informal economy, often in family settings, and the Government rarely sought to prosecute a poor family because it had a working child. Nevertheless, the Government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop other, safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the Government made attempts to devote more resources to child labor programs, resources remained inadequate.

The Government and NGOs implemented programs to prevent the engagement of children in exploitative child labor. DOLE worked with domestic NGOs to educate communities on child labor and provided counseling and other activities for children. DOLE and the Department of Education worked with NGOs, UNICEF, and the ILO International Program on the Elimination of Child Labor to assist children to return to school. The Government also imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. DOLE continued its efforts to rescue exploited child workers, rescuing 146 minors in 58 different operations between January and September. The Employers Confederation of the Philippines pursued an active and highly visible program against child labor.

e. Acceptable Conditions of Work

The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards set minimum wages. In January and February, a round of wage increases was implemented in most regions of the country. The highest rates were in the National Capital Region (NCR) and the lowest in rural regions. The minimum daily wage for NCR nonagricultural workers was \$5.36 (P300). Although this represents an increase of 20 pesos over last year, it still did not provide a decent standard of living for a worker and family in the NCR. The lowest minimum wages were in the ARMM, where the daily agricultural wage was \$2.64 (P138). The regional wage board orders covered all private sector workers except domestic servants and other persons employed in the personal service of another person. Boards outside the NCR exempted some employers because of factors such as establishment size, industry sector, involvement with exports, financial distress, and level of capitalization. These exemptions excluded substantial additional numbers of workers from coverage under the law. Unions have filed complaints about the minimum wage exemption policies.

In practice, violation of minimum wage standards was common, and large numbers of workers received less than the minimum wage set for their area. Many firms hired employees for less than the minimum apprentice rates, even if there was no approved training in their production-line work. Inspections of Metro Manila commercial firms by DOLE in August revealed 52 percent were out of compliance with the prevailing minimum wage rate in the region. They acknowledged that the shortage of inspectors made the law difficult to enforce. In addition to fines, the Government also made use of administrative procedures and moral suasion to encourage employers to voluntarily rectify violations. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

By law, the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an 8-hour per day limit. The Government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates 1 day of rest each week. However, there is no legal limit on the number of overtime hours that an employer may require. The DOLE conducted only sporadic inspections to enforce limits on workweek hours. The Labor Inspectorate was not considered effective.

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with too few positions allocated for inspectors nationwide, local authorities often must carry out enforcement. DOLE officials acknowledged that the number of inspectors was not adequate for the number of work sites to be inspected. DOLE launched a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The Government and several NGOs worked to protect the rights of the country's 8.67 million overseas citizens, most of whom are temporary or contract workers. The Government placed financial sanctions and criminal charges on domestic recruiting agencies found guilty of unfair labor practices. Although the POEA registered and supervised domestic recruiters' practices

successfully, the authorities sometimes lacked sufficient resources to ensure workers' protection overseas. It sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The Government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens.