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## 2009 Human Rights Report: Philippines

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

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The Philippines, with a population of 92 million, is a multiparty republic with an elected president and bicameral legislature. In 2007 approximately 73 percent of registered citizens voted in mid-term elections for both houses of congress and provincial and local governments. The election generally was free and fair but was marred by violence and allegations of vote buying and electoral fraud. Long-running Communist and separatist insurgencies affected the country. Civilian authorities generally maintained effective control of the security forces; however, there were some instances in which elements of the security forces acted independently.

Arbitrary, unlawful, and extrajudicial killings by elements of the security services and political killings, including killings of journalists, by a variety of actors continued to be major problems. Concerns about impunity persisted. Members of the security services committed acts of physical and psychological abuse on suspects and detainees, and there were instances of torture. Prisoners awaiting trial and those already convicted were often held under primitive conditions. Disappearances occurred, and arbitrary or warrantless arrests and detentions were common. Trials were delayed, and procedures were prolonged. Corruption was endemic. Leftist and human rights activists often were subject to harassment by local security forces. Problems such as violence against women, abuse of children, child prostitution, trafficking in persons, child labor, and ineffective enforcement of worker rights were common.

In addition to killing soldiers and police officers in armed encounters, the New People's Army (NPA)--the military wing of the Communist Party--and the Abu Sayyaf Group (ASG) killed local government officials and other civilians. The terrorist groups NPA and ASG reportedly used child soldiers in combat or auxiliary roles. Terrorist groups committed bombings causing civilian casualties and conducted kidnappings for ransom.

### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

Security forces and antigovernment insurgents committed a number of arbitrary and unlawful killings, including in connection with an increase in fighting between government forces and Muslim rebels in central Mindanao (see section 1.g.). The Commission on Human Rights (CHR), an independent government agency, investigated 57 new complaints of

politically motivated killings that occurred from January through November. The CHR suspected personnel from the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) in some killings of leftist activists operating in rural areas. Suspects in other cases were ordinary citizens or remained unknown. The nongovernmental organization (NGO) Task Force Detainees of the Philippines (TFDP) investigated allegations of summary executions by government security forces. The TFDP was unable to investigate all of these allegations, but it counted eight cases involving 12 victims of summary executions by government forces during the year.

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By year's end the PNP's Task Force Usig, responsible for monitoring extrajudicial killings, recorded 156 cases of killings since 2001, nine of which occurred during the year. Of these, 95 cases were filed in court and prosecutor's offices, 60 cases were under investigation, and one case was closed. There was one conviction of a state actor during the year. One human rights organization recorded 134 victims of extrajudicial killings during the year.

On May 15, President Gloria Arroyo abolished the Interagency Legal Action Group, which some human rights groups alleged was a tool for targeting activists. The PNP expanded human rights training and community outreach efforts during the year and maintained a network of 1,841 human rights desk officers at the national, regional, provincial, and municipal levels.

Human rights groups and the CHR noted little progress in implementing and enforcing some reforms aimed at decreasing the incidence of killings. For example, cooperation and coordination between police and prosecutors continued to be a problem. Funding for the CHR and the government witness protection programs was considered inadequate.

Killings during the year included the following: On March 4, unidentified armed men in Davao City abducted and killed Rebelyn Pitao, a schoolteacher and daughter of a high-ranking Communist leader. At year's end the CHR investigation into the case continued. On March 9, two unidentified men shot and killed antimining activist Eliezar Billanes, chair of the South Cotabato People's Alliance for Nationalism and Development in Koronadal City, South Cotabato. A CHR investigation into the case continued. On April 29, two unidentified assailants shot and killed indigenous people's mining activist and farmer group leader Ludenio Monzon in Boston, Davao Oriental. The police were investigating the case but did not establish a motive for the killing. In October 2008 Monzon filed a harassment case against the military at the CHR regional office. On June 10, three unidentified men shot and killed Fermin Lorico, leader of an activist peasant group, in Dumaguete City. The group accused the military. At year's end the PNP was investigating. On September 6, armed men shot and killed Catholic priest Cecilio Lucero in San Jose, Northern Samar. Lucero was chairman of the task force on peace and order of the Diocese of Catarman and was involved in the investigation of human rights abuses.

On November 23, a group of up to 100 unidentified armed men killed at least 57 individuals, including women, 30 media workers, and several relatives of Buluan Vice Mayor Esmael Mangudadatu in Ampatuan, Maguindanao. The victims were en route to file a certificate of candidacy for the vice mayor to run in the Maguindanao gubernatorial race. The authorities charged political rival Andal Ampatuan, Jr., with 25 counts of murder on December 1. Eleven other suspects, including the patriarch of the powerful Ampatuan clan, former Maguindanao governor Andal Ampatuan, Sr., seven Ampatuan relatives, and law enforcement personnel were also indicted. Some 1,000 police officers were relieved and transferred to other provinces in the Autonomous Region in Muslim Mindanao (ARMM) pending investigation of the case. On December 4, President Arroyo declared martial law in parts of the province, and more than 4,000 troops were deployed to arrest massacre suspects and break up armed groups who threatened public safety. Martial law was lifted eight days later, and CHR observers reported no human rights abuses by soldiers during the period. Investigations into the case continued at year's end, and suspects remained jailed pending indictments.

Investigations of cases from 2007 and 2008 were ongoing.

On March 26, a regional trial court judge sentenced former police superintendent Rafael Cardeno to life imprisonment for masterminding the 2001 murder of Young Officers Union spokesperson Baron Cervantes. The judge ordered Cardeno to pay Cervantes' family 350,000 pesos (approximately \$7,350) in civil and moral damages.

Government forces killed a number of civilians during clashes with armed groups (see section 1.g.). Terrorist groups killed and kidnapped NGO workers, teachers, and other civilians. In October the ASG kidnapped school principal Gabriel Canizares; he was later beheaded after his family was not able to pay a ransom of two million pesos (approximately \$42,000). Communist insurgents, mainly from the NPA, continued to kill political figures, military and police officers, and civilians, including suspected military and police informers. Extortion groups associated with the ASG killed persons in bombings (see section 1.g.).

On July 5, a bomb outside the Cathedral of the Immaculate Conception in Cotabato City killed six and wounded 30 others as they were leaving worship service. On July 7, two more bombs exploded in Jolo City, killing two persons and injuring 50.

On August 24, security forces arrested Dinno-Amor Pareja, the leader of the terrorist Raja Solaiman Movement and a principal suspect in the 2005 Valentine's Day bombing in Manila and several other bombings in Mindanao. On January 23, a Manila court sentenced three members of the Moro Islamic Liberation Front (MILF) to life terms for their parts in bombing attacks in 2000 that killed 22 persons.

Vigilante groups were suspected of conducting summary killings of adult criminals and children involved in petty crime in five major cities and in the Metro Manila region. The Coalition Against Summary Execution recorded 76 apparent vigilante killings in Davao City from January through July. The CHR held public hearings on the killings and continued its investigations during the year. The international NGO Human Rights Watch report on the Davao killings concluded that members of the police and local officials were involved or complicit.

Vigilante killings also allegedly occurred in Cebu City, Cagayan de Oro, Tagum City, and General Santos City. The victims were suspected of involvement in criminal activities, and the killings appeared to have popular support. Authorities made no arrests in these cases.

In April UN Special Rapporteur Philip Alston issued a follow-up report to his 2007 mission, which noted the lack of prosecutions for extrajudicial killings and an increase in vigilante killings.

#### b. Disappearance

**According to local human rights NGOs, government forces were responsible for disappearances.** From January through November, the CHR investigated nine new cases of enforced disappearances, abductions, and kidnappings involving 15 victims, some of whom had been detained without a warrant (see section 1.d.). Seven cases remained under investigation; two cases were closed when the two persons involved appeared and confirmed that no government actors were involved in their cases. An additional six persons were accounted for: Three were found alive in police custody; unknown captors detained and later released two; and the sixth victims died at the hands of his abductors (see section 1.g.). Seven persons remained missing. The CHR suspected members of the military in three unresolved cases. Suspects in the other cases remained unidentified. The NGO Families of Victims of Involuntary Disappearances (FIND) monitored 12 reported disappearance cases involving 20 victims, most of whom were later found alive.

A foreign citizen of Filipino descent claimed that she and two others were abducted and tortured by members of the military in Tarlac. An investigation was ongoing (see section 1.c.).

On February 19, the regional trial court in La Trinidad, Benguet, approved a petition for a writ of amparo, providing the court's protection to the family of indigenous rights activist James Balao, who disappeared in 2008. The respondents appealed the case with the Office of the Solicitor General, and at year's end the case was pending before the Supreme Court.

Some victims' families complained that the courts and police failed to address adequately their complaints concerning disappearances in which security forces were suspected. Evidence of a kidnapping or killing is required to file charges. FIND and other NGOs continued to support the efforts of victims' families to press charges. In most cases evidence and documentation were unavailable, and convictions were rare.

There were no developments in earlier disappearance cases, and there were no convictions for disappearance cases during the year. Investigative and judicial inaction on previous cases of disappearance contributed to a climate of impunity and undermined public confidence in the justice system.

Terrorist and criminal groups committed a number of kidnappings for ransom in the southern Philippines (see section 1.g.).

#### 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 were alleged to have routinely abused and sometimes tortured suspects and detainees. On November 10, President Arroyo signed the Anti-Torture Law that criminalizes acts of torture. Penalties range from one month to life in prison, depending on the gravity of the offense. The law also provides rehabilitation and compensation of not less than 10,000 pesos (\$210) to victims of torture and their families.

The CHR and human rights groups reported that excessive force and torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation included electric shock, cigarette burns, or suffocation.

From January through December, the TFDP documented 40 cases of torture involving 67 victims and alleged that security forces were responsible. From January to November, the CHR investigated 11 cases of alleged torture, with police, military, and other law enforcement officers identified as suspects in seven of the cases.

A foreign citizen of Philippine descent claimed she was abducted from La Paz, Tarlac, and held in a military camp in Nueva Ecija from May 19 to 25. She claimed she was tortured by her abductors and then released after they failed to get an admission that she was a member of the NPA. On August 26, the court of appeals granted her amparo and habeas data petitions but denied her request to name senior government officials as respondents in the case.

There were reports that prison guards physically abused inmates. The CHR and TFDP reported that abuse by prison guards and other inmates was common, but prisoners, fearing retaliation, refused to lodge formal complaints. Women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. The police sometimes punished officers who were found to have committed assault or abuse. Human rights activists believed suspected ASG and NPA members in captivity were particular targets for abuse.

There were alleged instances of rape perpetrated by officials of the PNP, and anecdotal reports of an increase in rape and sexual abuse charges filed against officers.

#### Prison and Detention Center Conditions

Prison conditions were rudimentary and sometimes harsh. Provincial jails and prisons were overcrowded, lacked basic infrastructure, and provided prisoners with an inadequate diet. Jails managed by the Bureau of Jail Management and

Penology (BJMP) operated at an average of 174 percent of designed capacity. Prison administrators allotted a daily subsistence allowance of 50 pesos (\$1.04) per prisoner. The Bureau of Corrections under the Department of Justice administered seven prisons and penal farms for prisoners sentenced to more than three years in prison. Lack of potable water, poor sanitation, and poor ventilation continued to cause health problems. Some prisoners, including women and children, were abused by other prisoners and prison personnel. The slow judicial process exacerbated overcrowding. A local NGO claimed that, since 2007, at least seven elderly prisoners diagnosed with serious illnesses have died in prison annually and blamed this problem on the "deficient" parole system. At year's end the president granted executive clemency to 32 elderly persons.

There were reports of widespread corruption among prison guards and, to some extent, at higher levels of authority within the prison system.

According to BJMP regulations, male and female inmates are to be held in separate facilities and, in national prisons, overseen by guards of the same sex. Anecdotal reports suggested 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 or place them in youth detention centers, in some instances children were held in facilities not fully segregated from adult male inmates. Girls were sometimes held in the same cells as boys. As part of reform and budget reduction efforts during the year, the government consolidated women and minors into fewer jails, including some that contained separate facilities for those groups. Out of 1,011 jails managed by the BJMP and PNP, 190 had separate cells for minors, while 334 jails had separate cells for adult females. Lack of adequate food for minors in jails and prisons was a concern (see section 6, Children).

At year's end the BJMP and PNP jails held a total 58,786 prisoners, 95 percent of whom were pretrial detainees. The remainder had been convicted of various crimes. Of the total number of sentenced prisoners and detainees, 5,448 were adult women, 316 were minor detainees, and 13 were convicted minors. During the year the BJMP released 342 minor inmates, usually in response to a court order following a petition by the public attorney's office or the inmate's private lawyer, or through the appeals of NGOs. The Bureau of Corrections' prisons and penal farms had 35,934 prisoners, of whom 1,948 were women.

International monitoring groups, including the International Committee of the Red Cross (ICRC), were allowed free access to jails and prisons. However, a local NGO reported difficulty accessing jails or detentions centers where children were held.

#### d. Arbitrary Arrest or Detention

The law 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 and the AFP arrested and detained citizens arbitrarily. From January through July, the TFDP documented 78 cases of illegal arrest and detention involving 274 victims. The CHR tracked 48 cases of arbitrary arrest or detention from January to June. During the year the NGO FIND counted 16 abduction victims who were later found alive.

#### Role of the Police and Security Apparatus

The Department of National Defense directs the AFP, which shares responsibility for counterterrorism and counterinsurgency operations with the PNP. The Department of Interior and Local Government directs the PNP, which is responsible for enforcement of law and order and urban counterterrorism; however, governors, mayors, and other local officials have considerable influence. The 125,000-member PNP has deep-rooted institutional deficiencies and suffered from a widely held and accurate public perception that corruption remained a problem. The PNP's Internal Affairs Service

remained largely ineffective. Members of the PNP were regularly accused of torture, soliciting bribes, and other illegal acts. Efforts were underway to reform and professionalize the institution through improved training, expanded community outreach, and pay raises. During the year there were 177 administrative cases filed against members of the police force, including administrative officials and police officers, for various human rights violations. By year's end of the 177 cases filed, 137 were resolved and 40 were undergoing summary proceedings. In response to these cases the PNP dismissed 240 of its personnel. The deputy ombudsman for the military received 71 cases involving alleged human rights abuses by the military and law enforcement officers during the year, the majority of which were filed against low-ranking police and military officials. All of the cases were under investigation by the Deputy Ombudsman's Office at year's end.

The police and military routinely provided human rights training to their members, augmented by training from the CHR. The CHR noted that senior PNP officials appeared receptive to respecting the human rights of detainees, but rank-and-file awareness of the rights of detainees remained inadequate. The Commission on Appointments determines whether senior military officers selected for promotion have a history of human rights violations and solicits input from the CHR and other agencies during the course of its background investigations. In some instances a promotion can be withheld indefinitely when the commission uncovers a record of human rights abuses. Negative findings do not, however, preclude promotion, and there were no reports of promotions withheld on human rights grounds during the year.

The AFP did not aggressively pursue internal investigations into alleged serious human rights abuses by some of its members. As of August the AFP Human Rights Office monitored no new cases of killings, disappearances, or torture during the year.

Government-armed civilian militias supplemented the AFP and the PNP. Some politicians and clan leaders maintained their own private armies, particularly in Mindanao.

#### Arrest Procedures and Treatment While in Detention

Citizens are apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official and are brought before an independent judiciary. However, there were some reports during the year of citizens picked up by security forces without a warrant and detained arbitrarily. Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence, the right to bail. From January through March, 2,076 detainees (4 percent of detainees) were able to post bail. The law provides that an accused or detained person has the right to a lawyer of his choice and that the state must provide one when the accused cannot afford one. Authorities are required to file charges within 12 to 36 hours for arrests made without warrants, with the time given to file charges increasing with the seriousness of the crime. Lengthy pretrial detention remained a problem. The BJMP released 39,746 inmates during the year as part of jail decongestion programs. There was no available data indicating the number of detainees who were released because they had been jailed for periods equal to or longer than the maximum prison terms they would have served if convicted. Large jails employed paralegals to monitor inmates' cases to prevent detention beyond the maximum sentence and to assist decongestion efforts.

There were also reports that many children detained in jails were arrested without warrants.

Six labor and human rights activists arrested on criminal charges in 2008, including labor attorney Remigio Saladero, were released February 5 following an order from a local court. On November 13, the Rizal provincial prosecutor dismissed murder charges against Saladero and others for lack of probable cause.

The NPA, as well as some Islamic separatist groups, were responsible for a number of arbitrary detentions, including kidnappings and hostage-taking.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes bribery resulted in impunity for some wealthy or influential offenders and contributed to widespread skepticism that the judicial process could ensure due process and equal justice. The Supreme Court continued efforts to ensure speedier trials, sanction judicial malfeasance, increase judicial branch efficiency, and raise public confidence in the judiciary. The Supreme Court dismissed or disciplined several judges during the year for various crimes and infractions.

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 courts-martial, each composed of at least five active-duty military officers, hear cases against military personnel accused of violating the Philippine Articles of War. The president, the chief of staff of the armed forces, or a military unit commander may appoint the members of a court-martial. Military or security tribunals cannot try civilians.

On September 16, Judge Edimer Gumbahali of the Jolo, Sulu, Shari'a Circuit Court was shot and killed by unidentified gunmen. There were no available witnesses and no case was filed.

#### Trial Procedures

The law provides that all persons accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial before a judge. 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, but 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 provided 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.

The law provides that cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for a court of appeals; and three months for lower courts. However, these time limits were not mandatory, and, in effect, there were no time limits for trials.

Lengthy pretrial detention remained a problem. Anecdotal evidence suggested that, in practice, trials can take six years or more. Trials take place in short sessions over time as witnesses and court time become available; these noncontinuous sessions created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high; of the total 2,182 trial court judgeships (including Shari'a courts), 539 (25 percent) were vacant. Courts in Mindanao and 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. All five Shari'a district court judgeships and 39 percent of circuit court judgeships remained vacant. Shari'a courts do not have criminal jurisdiction.

#### Political Prisoners and Detainees

Various human rights NGOs maintained lists of incarcerated persons they considered to be political prisoners. At year's end, the TFDP reported that there were 255 political prisoners. The majority of persons listed had not been convicted. Some NGOs asserted that it was frequent practice to make politically motivated arrests of persons for common crimes, or on fabricated charges, and to continue to detain them after their sentences expired.

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.

From January to December, the government released 80 persons whom NGOs claimed were political prisoners.

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

#### Civil Judicial Procedures and Remedies

The judiciary is independent and impartial in civil matters. There are administrative remedies as well as judicial remedies for alleged wrongs; however, corruption was widespread in the judiciary, and cases often were dismissed. Complainants have access to local trial courts to seek damages for, or cessation of, human rights abuses.

During the year the Supreme Court dismissed four petitions for writs of amparo, overturning earlier court approvals of writs in two cases. Nine other petitions remained pending. A petition for writ of amparo was filed during the year but was dismissed.

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

The law 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 generally declared evidence obtained illegally to be inadmissible.

The government generally respected the privacy of its citizens; however, leaders of communist organizations and rural-based NGOs complained of what they described as a pattern of surveillance and harassment.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year. 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 was limited.

#### g. Use of Excessive Force and Other Abuses in Internal Conflicts

The government was engaged in combat with antigovernment forces and terrorists who actively sought to destabilize the country. Government forces killed a number of civilians during clashes with antigovernment forces. Some citizens' groups complained that the AFP, in confronting the ASG and the NPA, illegally detained citizens, destroyed houses, displaced residents, and shelled villages. Clashes between the AFP and forces of the separatist group MILF continued in central Mindanao during the first half of the year, resulting in the deaths of civilians and the displacement of hundreds of thousands of others. On July 25, the government and MILF signed an agreement to end hostilities and resume discussions on a comprehensive peace agreement.

#### Killings

Government forces acknowledged the deaths of civilians in the course of military operations against the MILF, whose forces also killed civilians as well as police officers. A National Disaster Coordinating Council July 14 report indicated that 112 civilians were confirmed killed in the Mindanao conflict by either rebel MILF or government forces from August 2008 to July 2. Unconfirmed numbers of AFP soldiers and MILF rebels also were killed in the conflict.

From January to December, according to military sources, 219 members of the AFP were killed in action during encounters with rebel and terrorist groups: 132 by the NPA, 54 by the ASG, and 33 by the MILF. During the same period,

AFP operations resulted in 227 insurgents killed: 165 NPA, 10 ASG and 52 MILF. The PNP recorded 27 of its personnel killed from January through December and claimed nine ASG and 14 NPA insurgents were killed in PNP operations around the country. The AFP also recorded 127 bombings during the year.

NGOs alleged that government security forces abducted, tortured, or killed civilians during military operations against the MILF. NGOs also reported that indiscriminate shelling of villages by security forces led to civilian deaths. There were reports that both MILF and government forces set fire to villages. Clan feuds contributed to violence between various armed factions in Mindanao.

The government suspected groups with ties to the ASG or Jemaah Islamiyah were responsible for a series of bombings in Cotabato City, Jolo City, and Iligan City that killed civilians. No group claimed responsibility for the attacks.

The government attributed fatal bombings and a beheading in Basilan to the ASG. On August 12, 23 soldiers and at least 21 ASG members were killed when the military launched a major offensive on a suspected ASG training camp on Basilan. The government blamed nearby MILF forces for firing on government troops during the counterterrorist operation.

Communist insurgents, mainly from the NPA, used roadside bombs, ambushes, and other means to kill political figures, military and police officers, and civilians, including suspected military and police informers. The NPA and other extortion groups also harassed businesses and government offices, and burned farms, businesses, and private communication facilities to enforce the collection of "revolutionary taxes."

During the year the NPA admitted responsibility for the May 23 killing of Evelyn Pitao-Dadula and her husband, declaring that Pitao-Dadula was killed for "political crimes against the people" by decision of the "People's Court of the Communist Party." The NPA "apologized" for killing her husband.

#### Abductions

There were numerous kidnappings recorded in Mindanao and the Sulu Archipelago by various armed criminal and terrorist groups, including the ASG. Victims often were released in exchange for payments or rescued by authorities, while others were killed by their captors (see section 1.a.).

On January 15, members of the ASG kidnapped ICRC workers Andreas Notter, Eugenio Vagni, and Mary Jean Lacaba in Jolo, Sulu. Threatening to behead the hostages, the ASG repeatedly demanded ransom and a military withdrawal from the area. Lacaba was released April 2, and Notter escaped on April 18. On July 12, government intermediaries successfully negotiated for Vagni's release. At least nine other individuals, including six public school teachers, one foreign NGO worker, and two local microfinance employees were reportedly abducted by ASG members in Basilan and the Zamboanga Peninsula from January to March. These victims were either rescued or released during the year.

Unidentified persons kidnapped Irish priest Michael Sinnott on October 11 in Zamboanga del Sur Province; he was released a month later.

On May 15, MILF rebels took over villages in coastal Sultan Kudarat and Maguindanao and used 20 residents as human shields to escape pursuing government forces. The civilian hostages were later released unharmed.

#### Child Soldiers

During the year the NPA and the ASG targeted children for recruitment as combatants and noncombatants. 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. During the year the AFP reportedly rescued 15 child soldiers, 12 of whom were allegedly recruited by the NPA.

The ASG recruited teenagers to fight and participate in its activities. The AFP stated that some Islamic schools in Mindanao served as fronts to indoctrinate children.

A 2007 study commissioned by the UN Children's Fund (UNICEF) found that children as young as 10 years were used as soldiers or recruited by the MILF. Most of the children were volunteers often with the support of their families, serving in noncombat roles. During the December 2008 visit of the special representative of the UN secretary general, the MILF agreed to stop the recruitment and use of children in its ranks. On July 31, UNICEF and the MILF signed an action plan to prevent the recruitment and use of child soldiers and to release children from all MILF units.

During the year the Department of Social Welfare and Development (DSWD) assisted seven child soldiers rescued from rebel groups. Government reporting mechanisms for children in armed conflict were inconsistent between agencies and regions, making it difficult to evaluate the scope of the problem.

#### Other Conflict-related Abuses

Clashes between the MILF and AFP continued and caused the number of internally displaced persons (IDPs) to fluctuate. Most IDPs were in the central Mindanao provinces of Lanao del Norte, Cotabato, and Maguindanao (see section 2.d.).

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." The MILF also maintained its own "people's courts."

#### 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.

The government owned several television and radio stations; however, most print and electronic media were privately owned. The independent media were active and expressed a wide variety of views without restriction, but they 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 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 face harassment and threats of violence from individuals critical of their reporting.

Journalists continued to be killed. The Center for Media Freedom and Responsibility reported 34 journalists killed from January through December. Task Force Usig classified five of these cases as work-related killings.

On January 22, two unidentified assailants in Cotabato City shot and killed radio commentator Badroddin Abbas, known for hard-hitting stories. The case was under investigation at year's end.

On June 9, a gunman shot and killed Crispin Perez, a local radio station commentator and former vice governor of Mindoro Occidental. On July 2, the National Bureau of Investigation and Perez's widow filed a murder complaint with the Department of Justice (DOJ) against a local police officer, who remained under restrictive custody pending the result of a preliminary investigation.

On June 12, two unidentified men shot and killed local tabloid reporter Antonio Castillo, known for his criticism of local politicians, in Masbate. On July 3, a murder case was filed against one known suspect and another unidentified suspect, both at large.

On June 25, a gunman in Agusan del Sur killed local radio broadcaster Jonathan Petalvero. Murder charges were filed July 31 against a suspect.

On July 27, a gunman shot and killed radio broadcaster Godofredo Linao, Jr. in Barobo town, Surigao del Sur. A murder case was filed July 28 against several suspects who remained at large.

On November 23, an estimated 100 armed men, many of whom have not been publicly identified, killed 57 individuals, including 30 reporters and media workers, in election-related violence in Ampatuan town, Maguindanao (see section 1.a.).

Task Force Usig considered the cases of Petalvero and Abbas as not work related.

Cases of journalist killings for 2008 and 2007 remained ongoing.

On April 22, a local court acquitted the lone suspect in the 2007 killing of Davao-based broadcaster Fernando Lintuan.

On April 29, a regional trial court convicted Joy Antimara of homicide in the 2006 killing of radio commentator Armando Pace and sentenced him to 10 to 17 years in prison.

On May 14, the suspected mastermind in the 2005 killing of local newspaper editor Philip Agustin was arrested in Mabalacat, Pampanga.

On May 16, an important witness to the 2004 killing of Aklan broadcaster Herson Hinolan was arrested for defying a subpoena.

On July 13, the Supreme Court granted a petition to transfer the trial for the 2008 murder of broadcaster Dennis Cuesta from General Santos City to Makati City. One of the accused was a police inspector related to the incumbent mayor of General Santos City.

On May 6, the Department of Interior and Local Government approved the release of 18 million pesos (approximately \$377,830) as cash rewards for information leading to the arrest of persons wanted by authorities for their involvement in media killings.

Human rights NGOs frequently criticized the government for failing to protect journalists. The National Union of Journalists of the Philippines accused the police and the government of failing to investigate adequately these killings and of subjecting journalists to harassment and surveillance. In some situations it was difficult to discern if violence against journalists was carried out in retribution for their profession or if these journalists were the victims of random crime.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expressions of views via the Internet, including by e-mail. Internet access was available widely. According to International Telecommunication Union statistics for 2008 approximately 6.2 percent of the country's inhabitants used the Internet.

#### Academic Freedom and Cultural Events

Student groups at some universities accused security forces of harassing student political groups. The government did not otherwise interfere with academic freedom. There were no government restrictions on academic freedom or cultural events.

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

##### Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice. Although the law requires that groups obtain a permit to hold a rally, the government at times followed an unwritten policy of allowing rallies to occur without the filing of a request. The police exhibited professionalism and restraint in dealing with demonstrators, with few exceptions. An NGO reported that protesters were injured by police in February and May during two protests in Metro Manila. Other reports noted that some protesters were injured during an April 21 protest in Naga City.

##### Freedom of Association

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

#### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

The government's campaign against terrorist groups led some human rights NGOs to accuse the police and military of acting with bias in their treatment of Muslims.

Intermittent government efforts to integrate Muslims into political and economic society achieved only limited success. Many Muslims claimed that they remained underrepresented in senior civilian and military positions and cited the lack of proportional Muslim representation in national government institutions. Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development. The percentage of the population under the poverty level in the ARMM was almost twice as high as the national average, with per capita income of 15,760 pesos (approximately \$330) per year.

##### Societal Abuses and Discrimination

Historically, the Christian majority has marginalized Muslims. The national culture, with its emphasis on familial, tribal, and regional loyalties, contains 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 or securing retail-sector jobs 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.

An estimated 400 to 1,000 mostly foreign nationals of Jewish heritage lived in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf/](http://www.state.gov/g/drl/rls/irf/).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to

internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign travel 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 faced personal risk.

The government retained its formal ban on travel to Iraq for the purposes of employment, but the Department of Foreign Affairs estimated that 6,000 Filipinos worked there. The travel ban also included Afghanistan, Nigeria, and Lebanon. The Philippine Overseas Employment Administration (POEA) sought to limit departures for work abroad to persons the POEA certified as qualified for the jobs. Millions of citizens worked overseas and remitted money home. From January through June, such remittances accounted for approximately 10 percent of the gross domestic product.

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

#### Internally Displaced Persons (IDPs)

Sustained clashes between the AFP and the MILF during the first half of the year caused the number of IDPs to fluctuate. NGOs alleged that aggressive AFP tactics led to an increased number of IDPs in June. Most IDPs were in the central Mindanao and largely Muslim areas of Lanao del Norte, Cotabato, and Maguindanao. The September 1 humanitarian update produced by the UN Coordination Office estimated 66,028 IDP families or 330,140 IDP individuals in Mindanao as of August 25.

The government permitted humanitarian organizations to access IDP sites. NGOs noted that food aid was sometimes delayed. Security forces did not target IDPs, but military operations were carried out near IDP sites. The government did not restrict the movement of IDPs. At various times the government encouraged IDPs to return home, but they often were reluctant to do so because of the uncertain security situation and lack of food in their villages.

Government agencies, often with support from UN agencies and other international assistance, provided food assistance and other goods, constructed shelters and public infrastructure, repaired schools, constructed sanitation facilities, offered immunization, health, and social services, and provided cash assistance and skills training. Following its July ceasefire agreement with the MILF, the government embarked on a program to assist IDPs to return to their villages and regain their livelihoods. UN reports indicated that some IDPs, particularly in Manguindanao and Lanao del Norte provinces, returned to their villages as a result of the improved security situation. Other agencies, including the UN Development Program, Mindanao Emergency Response Network, and Red Cross continued to provide food and essential items such as medicine, blankets, water containers, and mosquito nets.

#### Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. However, no comprehensive legislation provides for granting refugee status or asylum. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion. The refugee unit in the DOJ determined which asylum seekers qualify as refugees; such determinations in practice implemented many of the basic provisions of the 1951 convention. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or its 1967 protocol. As of August there were no reports of the government extending such protections.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. On August 27, the Department of Foreign Affairs and the UNHCR signed a Memorandum of Agreement on the Emergency Transit of

Refugees, permitting the transit of refugees through the Philippines for onward resettlement in another country. The UNHCR recorded 104 refugees in 2008.

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

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

#### Elections and Political Participation

In 2007 midterm elections were held for senators, representatives, provincial governors, and local government officials. Voter turnout was high; however, incidents of violence and allegations of fraud marred the generally free and fair conduct of elections.

In general political parties could operate without restriction. In October the Commission on Elections rejected an attempt by a group that plotted an unsuccessful coup in 2003 to register a new political party. In November it rejected a petition by Ang Ladlad, an organization representing lesbian, gay, bisexual, and transgender (LGBT) persons, to be registered as a political party for the 2010 elections on the grounds that it "tolerates immorality, which offends religious beliefs." The group's petition for accreditation was previously denied in 2007 on the grounds that it did not have an adequate national presence. In December the commission rejected the group's appeal of the ruling. The Commission also disqualified Ang Ladlad's president Danton Remoto from the list of 2010 senatorial candidates, stating that he had inadequate support to conduct a nationwide campaign.

There were no other 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 four women in the 24-seat Senate and 51 women in the 240-seat House of Representatives. There were two women in the 22-member cabinet, six female associate justices on the 15-member Supreme Court, and 17 women among the 80 governors. On August 14, President Arroyo signed into a law the "Magna Carta for Women," which requires government agencies to hire more women over the next five years.

Along with many other citizens, Muslims and other indigenous groups argued that electing senators from a nationwide list favored established political figures from the Manila area. Election of senators by region would require a constitutional amendment, which many Muslims and members of other groups underrepresented in the national legislature favored. There were no Muslim or indigenous senators and no Muslim or indigenous cabinet members. There were 11 Muslim members in the House of Representatives, mostly elected from Muslim-majority provinces.

### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. Both the government and the private sector have established a number of anticorruption bodies, including an ombudsman's office and an anticorruption court, and public officials were subject to financial disclosure laws. The government convicted 71 officials in 234 corruption cases from January to November. Convictions included the February 14 conviction of a former DOJ prosecutor, the February 18 conviction of a retired AFP major general, the March 12 conviction of a former mayor and former municipal treasurer in Guimaras Province, and the April 2 conviction of a former municipal treasurer in Masbate.

The law provides for the right to information on matters of public concern. However, denial of such information often occurred when the information related to an anomaly or irregularity in government transactions. Much government information was not available electronically and was difficult to retrieve.

## Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The CHR and, to some extent, the PNP responded to and investigated cases of human rights abuses, as requested by NGOs. 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 Presidential Human Rights Committee consulted with NGOs but did not include representation from the NGO community, which some groups claimed reduced their ability to participate in the government's human rights initiatives.

The government cooperated with international organizations. In September it supported a high-level mission from the International Labor Organization (ILO) to investigate labor rights complaints.

The CHR is 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 authority to make recommendations regarding military and higher-level police promotions. The commission has a chairperson and four members. CHR monitoring and investigating continued to be hamstrung by insufficient resources. Approximately three-quarters of the country's 42,000 barangays (villages) 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 nationwide budget increased 19 percent over the prior year to 255.28 million pesos (approximately \$5.36 million). The CHR conducted numerous investigations during the year, including into alleged vigilante killings in Davao and other cities. The CHR faced some difficulty accessing military sites to conduct its searches for missing or detained persons.

The House of Representatives and Senate maintained active human rights committees.

## Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

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

### Women

Rape, including spousal rape, is illegal, but enforcement was ineffective. Rape continued to be a problem, with most cases unreported. At year's end the PNP reported 4,166 rape cases. The Bureau of Correction's prisons and penal farms held 246 prisoners convicted of rape, 132 of whom were serving life sentences. There were reports of rape and sexual abuse of women in police or protective custody--often women from marginalized groups, such as suspected prostitutes, drug users, and lower-income individuals arrested for minor crimes. There were alleged instances of rape perpetrated by officials of the PNP and anecdotal reports of an increase in rape and sexual abuse charges filed against officers.

Violence against women remained a serious problem. The law criminalizes physical, sexual, and psychological harm or abuse to women and their children committed by their spouses or partners. By year's end the PNP reported 5,285 cases of wife battering and physical injuries. This number likely underreported significantly the level of violence against women.

A local women's support group noted that, in smaller localities, perpetrators of abuse sometimes used personal relationships with local authorities to avoid prosecution. On other occasions women who sought to file complaints through the police were told to pay special fees before their complaints could be registered.

The PNP and the DSWD both maintained 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. Approximately 9 percent of PNP officers were women. The PNP has a Women and Children's Unit to deal with these matters.

Prostitution is illegal but was a widespread problem. Many women suffered exposure to violence through their recruitment, often through deception, into prostitution. Penalties for prostitution are light, but persons detained for prostitution were sometimes subjected to administrative indignities and extortion. Prostitutes were more likely to face charges, typically vagrancy, than their clients, who generally were not charged unless found to be committing sexual acts with a minor. The DSWD continued to provide temporary shelter and counseling to women engaged in both voluntary and involuntary prostitution. By year's end the DSWD provided temporary shelter and counseling to 66 women who were victims of involuntary prostitution. Some local officials discouraged the prosecution of those who exploited persons through prostitution. There were no convictions under the provision of the law criminalizing the act of engaging the services of a prostitute.

Sex tourism, with clients coming from domestic sources, the United States, Europe, Australia, and other East Asian countries, and trafficking in persons both domestically and internationally for sexual exploitation and forced labor remained serious problems.

The law prohibits sexual harassment. However, sexual harassment in the workplace was widespread and underreported due to victims' fear of losing their jobs. Female employees in special economic zones 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 three- to five-month contracts and were often reluctant to report sexual harassment for fear their contracts would not be renewed. Some labor unions believed that firms took punitive action against female employees who became pregnant.

The constitution upholds the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. However, the provision of health care services is the responsibility of local governments, and although men and women generally were treated equally, restrictions on the provision of artificial birth-control supplies by government-run health facilities in some localities reduced the availability of family-planning resources for impoverished women. For example, in 2000 the then mayor of Manila issued an executive order that promoted natural family planning and, according to its critics, in effect prohibited provision of "artificial" family planning services in city hospitals and health centers. At year's end the executive order remained in effect. However, many individuals had access to some forms of contraception, although some objected to using them on religious grounds. In urban areas social hygiene clinics served everyone who sought consultation and treatment. Women and men were equally diagnosed and treated for sexually transmitted infections. The Department of Health trained rural health physicians in diagnosis and treatment, but local health offices faced resource constraints. For maternal health services, 70 percent of pregnant women had at least four antenatal care visits, and 40 percent of births were facility-based or had skilled birth attendants.

The law does not provide for divorce, although courts generally recognize the legality of divorces obtained in other countries if one of the parties is a foreign national. 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 seven are placed in the care of the mother unless there is a court order to the contrary. Children over the age of seven 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. Although they faced workplace discrimination, women continued to occupy senior positions in the workforce. In an April labor force survey, 57 percent of government officials, corporate executives, managers, and supervisors were women. The survey also revealed that of the 2.83 million unemployed persons, 38.5 percent were women and 61.5 percent were men.

The National Commission on the Role of Filipino Women, renamed the Philippine Commission on Women, composed of 10 government officials and 11 NGO leaders appointed by the president, acted as an oversight body whose goal is to press for effective implementation of programs benefiting women.

#### Children

Citizenship is derived by birth within the country's territory or from one's parents. The government continued to promote birth registration. Credible organizations estimated there were more than two million unregistered children in the country, primarily among Muslim and indigenous groups.

The government devoted considerable resources to the education, welfare, and development of children. The Department of Education's (DepEd) 12 percent share of the national budget was the largest of any cabinet department. Nevertheless, children faced serious problems.

Elementary and secondary education is free and compulsory through age 11, but the quality of education remained poor. During the year according to DepEd figures, the estimated annual per pupil expenditure for basic education was 7,789 pesos (approximately \$163). The public school enrollment rate was 76 percent. According to the 2007 UNICEF Mid-Term Review, boys were more likely than girls to drop out of school. Children could be deprived of education if they lacked required documents, such as birth certificates.

Child abuse remained a problem. During the year DSWD offices served 6,022 victims of child abuse, of whom 67 percent were girls. Approximately 46 percent of the girls were victims of sexual abuse, while 2 percent were victims of sexual exploitation. Some children also were victims of police abuse while in detention for committing minor crimes. Several cities ran crisis centers for abused women and children. Foreign pedophiles exploited children, and the government continued to prosecute accused pedophiles vigorously.

Child prostitution continued to be a serious problem. Since the passage of a law against child labor in 2003, the Department of Labor and Employment (DOLE) ordered the closure of 15 establishments for allegedly prostituting minors. Trials in these cases were ongoing. During the year DOLE issued new regulations that facilitate the immediate closure of establishments suspected of using children for commercial sex acts, with court hearings to determine the validity of the government's complaint to be held at a later time.

The minimum age for consensual sex is set at 12 years of age. The statutory rape law criminalizes sex with minors under the age of 12 and sex with a child under age 18 involving force, threat, or intimidation. Reclusion perpetua, a 40-year sentence that has no option for pardon or parole until 30 years have been served and carries a lifetime bar to holding political office, is the maximum penalty for rape. On November 17, President Arroyo signed the Anti-Child Pornography Act, which carries penalties ranging from one month to life in prison and fines from 50,000 to five million pesos (\$1,049 to \$104,953), depending on the gravity of the offense. One NGO reported that pornographers forced some children to engage in pornographic activity. In March a Cebu woman was sentenced to life imprisonment and fined three million pesos (\$62,972) for child pornography involving five minors.

The NPA and ASG continued to recruit minors both as combatants and noncombatants (see section 1.g.).

UNICEF estimated that there were approximately 250,000 street children. Many street children appeared to be abandoned and engaged in scavenging or begging. At year's end the DSWD had provided services to 40,861 street children nationwide.

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, procedural safeguards were often ignored in practice. According to the BJMP, 316 minors were held on "preventive detention" while their trials were underway. Many child suspects were detained for extended periods without access to social workers and lawyers and were not segregated from adult criminals. NGOs believed that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other ill treatment. There were also reports that many children detained in jails appeared to have been arrested without warrants.

NGOs alleged that vigilantes with ties to government authorities were responsible for killing street children in Davao and other major cities (see section 1.a.). Children were affected by displacement in central Mindanao and generally had access to government services (see section 2.d.).

During the year government agencies and NGOs transferred 399 minor prisoners to DSWD rehabilitation centers and continued to work to secure the release of minors wrongfully imprisoned and of those below 15 years of age. The DSWD ran 11 regional youth rehabilitation centers for juvenile offenders. There were three detention centers for children in Manila.

#### Trafficking in Persons

Trafficking in persons is prohibited under the law, which defines several activities related to trafficking in persons as illegal and imposes stiff penalties--up to life imprisonment--for convicted offenders. Nonetheless, trafficking remained a serious problem. The country was a source, transit point, and destination for men, women, and children trafficked for the purposes of sexual exploitation and forced labor. A significant number of men and women who migrated abroad for work were subjected to conditions of involuntary servitude in the Middle East, North America, and other parts of Asia. Women were trafficked abroad for commercial sexual exploitation, primarily to Japan, Malaysia, Singapore, Hong Kong, South Korea, and countries in the Middle East and Western Europe. Women and children were also trafficked within the country, primarily from rural areas to urban areas for forced labor as domestic workers and factory workers and for sexual exploitation. A smaller number of women were occasionally trafficked from China, South Korea, Japan, and Russia to the country for sexual exploitation. Child sex tourism continued to be a serious problem, with sex tourists coming from Northeast Asia, Europe, and North America to engage in sexual activity with minors.

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 Cebu, but also increasingly to cities in Mindanao. A significant percentage of the victims of internal trafficking came from Mindanao who were fleeing the poverty and violence in their home areas. Approximately 75 percent of the trafficking victims provided with temporary shelter and counseling by the NGO Visayan Forum Foundation were from Mindanao. The Visayan region was also a source of trafficking victims. Women and girls were far more at risk of becoming victims of trafficking than men and boys.

Traffickers often targeted persons seeking overseas employment. An estimated four million Filipinos served as temporary overseas workers, approximately 4 percent of the population and 10 percent of the workforce. Most trafficking victims were females ages 13 to 30 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, promising respectable and lucrative jobs.

Although the government pursued trafficking cases under the antitrafficking law as well as other related laws, its efforts were hampered by slowness of the courts, a high vacancy rate among judges, resource constraints within law enforcement agencies, endemic corruption, and general inefficiency of the judicial system. NGOs reported that an impediment to successful trafficking prosecutions is the lack of understanding of trafficking among judges, prosecutors, and especially law enforcement officers. On September 29, in a case filed and prosecuted by an NGO, a regional trial court in Manila sentenced two human traffickers--including a police officer--to life in prison and fined them two million pesos (approximately \$41,980) for trafficking minors in 2005. The convicted police officer was the country's first public official convicted for human trafficking. On October 29, a trafficker was convicted and sentenced to over 30 years' imprisonment for three counts of sexual abuse and violation of the antitrafficking law for recruiting minors for commercial sex. On November 17, a trafficker pled guilty to acts that promote trafficking, a crime under the antitrafficking law, and was sentenced to 15 years' imprisonment and fined one million pesos (approximately \$20,990). On November 23, three traffickers were convicted and sentenced to life imprisonment. The court fined each of them two million pesos (approximately \$41,980) for recruiting a minor in 2006 under a pretext of offering a job overseas. On December 22, a trafficker was convicted and sentenced to eight to 10 years' imprisonment in a 2006 case involving illegal recruitment of a minor for employment in Manila as an entertainer. The government did not convict any offenders for labor trafficking.

The DOJ assigned responsibility to 20 prosecutors who, in addition to their regular workloads, also handled the preliminary investigation and prosecution of trafficking cases at the national level. There were 95 prosecutors at the regional, provincial, and municipal levels with similar responsibilities for trafficking. The principal investigative agencies were the National Bureau of Investigation, the Bureau of Immigration, the Philippine Center for Transnational Crimes, and the PNP's Criminal Investigation and Detection Group, with the participation of other members of the Interagency Council Against Trafficking. The government cooperated with international investigations of trafficking. The ombudsman created a task force for trafficking-related corruption cases. Corruption among law enforcement agents remained a particular obstacle to improved antitrafficking performance. It was widely believed that some government officials were involved in, or at least permitted, trafficking operations within the country.

The PNP investigated 310 cases of trafficking during the year. By year's end 36 new cases of trafficking were filed for prosecution, of which 15 were pending trial.

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. The government continued to provide training on the antitrafficking law and to send local officials to NGO-conducted antitrafficking training programs. With the government's own resources severely limited, it relied on partnerships with foreign government agencies, other foreign donors, and internationally funded NGOs for assistance with training and public awareness campaigns. The government continued to improve the standard operating procedures for trafficking task forces at international ports of entry. The Bureau of Immigration continued efforts to detect trafficking at exit points and deter traffickers. To address labor trafficking, the Bureau of Immigration at the Manila and Clark international airports in the first 10 months of the year, offloaded 7,880 passengers who were not properly documented and believed to be at risk for illegal recruitment and trafficking, a nine-fold increase from full-year 2008 data. It also introduced a warning message against human trafficking, abuse and exploitation of women and children, and drug trafficking in airport immigration arrival/departure forms used by thousands of international passengers every day.

The government increased efforts to protect victims of trafficking, although it continued to rely on NGOs and international organizations to provide services to victims. Victims who were identified were not penalized for crimes committed as a direct result of being trafficked. 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. By year's end the DSWD provided temporary shelter and social services to 207 women and 221 juvenile trafficking victims. Additional protective services included hotlines for reporting cases and the operation of 24-hour halfway houses in 13 regions of the country to assist victims.

The government rarely deported or charged victims of trafficking with crimes; however, police sometimes charged women in prostitution with vagrancy. There were no reliable statistics indicating whether these individuals were trafficking victims.

Victims may file civil suits or seek legal action against traffickers but rarely did so. Most victims who chose to do so filed charges of illegal recruitment. The government encouraged victims to assist in the investigation and prosecution of trafficking and related crimes, but the financial and emotional costs of prolonged and delayed court proceedings, which may take place in other provinces, often deterred victims from doing so. In labor trafficking cases, particularly involving overseas foreign workers, lengthy and costly trial procedures often encouraged victims to resolve their cases through mediation as opposed to criminal trials. The NGO International Justice Mission (IJM), employing private investigators and lawyers, coordinated with the government in an effort to increase the number of prosecutions on behalf of victims of trafficking and commercial sexual exploitation. The IJM prosecuted cases in close coordination with DOJ prosecutors; it initiated 51 cases, 23 of which were pending at year's end.

Numerous government agencies and officials, as well as NGOs and international organizations, continued to support public information campaigns against trafficking.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/q/tip](http://www.state.gov/q/tip).

#### Persons with Disabilities

The constitution prohibits discrimination against persons with disabilities in employment, education, access to health care, and other social services. The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments. The National Council for the Welfare of Disabled Persons formulates policies and coordinates the activities of all government agencies for the rehabilitation, self-development, and self-reliance of persons with disabilities and their integration into the mainstream of society. The DOLE's Bureau of Local Employment maintained registers of persons with disabilities indicating their skills and abilities. The bureau 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. One NGO reported that the government had limited means to assist persons with disabilities in finding employment, and such persons had limited recourse when their rights were violated because of the financial barriers to filing a lawsuit.

The DSWD operated two assisted living centers in Metro Manila, and five community-based vocational centers for persons with disabilities nationwide. Assisted-living centers were understaffed and underfunded. During the year the DSWD provided services to 1,533 persons with disabilities.

Advocates for persons with disabilities contended that equal-access laws were ineffective due to weak implementing regulations, insufficient funding, and government programs that 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 were limited. Two of Manila's three light-rail lines were wheelchair accessible; however, many stops had unrepaired, out-of-service elevators. Buses lacked wheelchair lifts, and one NGO claimed that private transportation providers, such as taxis, often overcharged persons with

disabilities or refused service. A small number of sidewalks had wheelchair ramps, which were often blocked, crumbling, or too steep. The situation was worse in many smaller cities and towns.

The constitution provides for the right of persons with physical disabilities to vote; however, persons with mental disabilities are disqualified from voting. Persons with physical disabilities are allowed to vote with the assistance of a person of their choice. In practice many persons with disabilities did not vote because of the physical barriers described above.

#### Indigenous People

Indigenous people lived throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They numbered over 14 million persons or 16 percent of the national population, with more than 63 percent of the total in Mindanao. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit as well as cultural bias prevented their full integration into society. Indigenous children often suffered from lack of health, education, and other basic services. NGOs estimated that up to 70 percent of indigenous youth left or never attended school because of discrimination they experienced. According to a local NGO, only 21 of 1,700 local government units in the country complied with the requirement of the 1987 People's Rights Act for the mandatory representation of indigenous persons in policy-making bodies and local legislative councils. No members of Congress were of indigenous descent.

Indigenous people suffered disproportionately from armed conflict, including displacement from their homes, because they often inhabited mountainous areas favored by guerrillas. Their lands were often the sites of armed encounters, and various parties to the fighting recruited many indigenous people. On August 19, Manobo indigenous communities and a local NGO protested the presence of military forces in Lianga, Surigao del Sur.

A National Commission on Indigenous People, staffed by tribal members, implemented constitutional provisions to protect indigenous people. During the year the commission had a budget of 735.4 million pesos (approximately \$15.4 million). During the year the commission awarded Certificates of Ancestral Land and Ancestral Domain Titles covering over 1.11 million acres of land claimed by indigenous people. It awarded such "ancestral domain lands" on the basis of communal ownership, stopping 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 and assigns indigenous groups the responsibility to preserve their domains from environmentally inappropriate development. Some NGOs expressed concern that the law was not adequately enforced and that the rights of indigenous communities, including the right to prior consent, were not always protected. An indigenous people's NGO alleged that 39 of 64 ongoing mining projects nationwide were on ancestral lands. There were anecdotal reports of indigenous groups, particularly the Mangyans in Mindoro and the Ati tribe in Boracay, being displaced by tourism and development. There were also reports of increased sales of ancestral lands to nontribal members, reportedly brokered by tribe members.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There was some societal discrimination based on sexual orientation, including in employment and education. There were many active LGTB organizations, and some of them held public marches or other events during the year to promote equality and antidiscrimination legislation. An effort by an LGBT group to register as a political party was denied because it "tolerates immorality, which offends religious beliefs" (see section 3).

#### Other Societal Violence or Discrimination

The law prohibits all forms of discrimination against persons with HIV/AIDS and provides basic health and social services for these persons. However, there was some evidence of discrimination against HIV/AIDS patients in the provision of

health care, housing, and insurance services. The rate of HIV/AIDS remained low, although the rate of infection was believed to be underreported. Overseas workers were required to participate in an HIV/AIDS class as part of a predeparture orientation seminar.

## Section 7 Worker Rights

### a. The Right of Association

The law provides 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.

At year's end the Bureau of Labor Relations reported 131 registered labor federations and 15,848 private sector unions. The 1.98 million union members included approximately 5.2 percent of the total workforce of 38.2 million. The number of firms using contractual labor, primarily large employers, continued to grow. There were 1,676 public sector unions, with a total membership of 356,279 or approximately 18 percent of the total employed persons in the public sector.

In 2007 a new labor law lowered the requirements for union registration, and in November 2008 the DOLE issued implementing rules and regulations for this law.

The International Trade Union Confederation and other labor rights advocacy groups expressed concern over killings and harassment of labor leaders and supporters and urged the government to increase efforts in investigating these attacks. Through December the Center for Trade Union and Human Rights (CTUHR) documented five killings of labor leaders, including the killing of Sabina Ariola, who was shot by an unidentified assailant en route to a rally on March 23. At year's end an investigation was pending. In addition, the CTUHR documented 26 cases of threats, harassment, and intimidation affecting 605 workers and labor advocates, seven cases of physical assault, and four cases of violent dispersal of protests.

Eight cases alleging violations of labor rights were pending with the ILO Committee on Freedom of Association (CFA). In September the government cooperated with a high-level ILO mission to investigate labor rights violations in the country.

Subject to 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 have been exhausted. The DOLE secretary may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the secretary decides that the company affected by the strike is vital to the national interest. Through December DOLE assumed jurisdiction in 12 labor dispute cases. Labor rights advocates criticized the government for intervening in labor disputes in sectors that were not vital to the national economy. On August 30, the court of appeals upheld the validity of Nestle Philippines' dismissal of more than 500 employees after their January 2002 strike following a deadlock in collective bargaining agreement negotiations. The court considered the workers' decision to ignore the DOLE's return-to-work order as valid grounds for loss of employment.

Government workers are prohibited from joining strikes under threat of automatic dismissal. Government workers may file complaints with the Civil Service Commission, which handles administrative cases and arbitrates disputes between workers and their employers.

The DOLE reported four strikes involving 1,510 workers from January to December.

Although the labor code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to three years, there has never been a conviction under this provision.

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

The law 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 corporations owned or controlled by the government. A similar right is afforded to most government workers. Collective bargaining was practiced; however, it was subject to hindrance, and union leaders may be subject to reprisal. International labor organizations noted that collective bargaining in the public sector was limited. At year's end the total number of private- and public-sector workers covered by collective bargaining agreements was recorded at 225,167 (approximately 11.3 percent of union members and less than 1 percent of the total workforce).

Allegations of intimidation and discrimination in connection with union activities are grounds for review before the quasi-judicial National Labor Relations Commission (NLRC) as possible unfair labor practices. 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. The DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

Management dismissal or threatened dismissal of union members was common. On January 6, approximately 300 workers picketed a Cebu-based furniture company that had dismissed several workers and filed a request with DOLE for a temporary shutdown in November 2008. A union officer claimed that the company used the global financial crisis as a reason to dismiss several union members. The union filed for a notice of strike on January 22, but the case was settled amicably on February 16. The laid-off workers were given separation benefits.

In March 2008 the CFA responded to a 2007 complaint by several union members at the Technical Education Services and Development Authority (TESDA) regarding the members' work-transfer orders and their subsequent dismissal from TESDA. The committee requested the government to reinstate the workers and provide compensation. Conflicting decisions in 2007 from the Civil Service Commission called for the reinstatement of the workers but also approved TESDA's decision to dismiss them. In December 2008 a court of appeals ruled in favor of TESDA management. In January a public-sector union representing workers at TESDA filed a motion for reconsideration with the Supreme Court. In April the Supreme Court denied the motion. In July the Civil Service Commission ruled the dismissed workers should be reinstated. At year's end TESDA's appeal of that decision was pending.

Labor groups alleged that companies in Special Economic Zones (SEZs) used frivolous lawsuits as a means of harassing union leaders. Labor groups reported that firms used bankruptcy as a reason for closing and dismissing workers.

Labor law applies uniformly throughout the country, including in SEZs; however, local political leaders and officials who governed the SEZs 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 further obstructed the enforcement of workers' rights to organize. The DOLE can conduct inspections of SEZs and establishments located there, although local zone 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. Union successes in organizing in the SEZs were few and marginal in part due to organizers' restricted access to the closely guarded zones and the propensity among zone establishments to adopt fixed-term, casual, temporary, or seasonal employment contracts.

Labor unions claimed that government security forces were stationed near industrial areas or SEZs to intimidate workers attempting to organize.

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

The law prohibits forced or compulsory labor; however, there were reports that such practices occurred, particularly affecting children, mainly in prostitution, drug trafficking, domestic service, and other areas of the informal sector (see sections 6 and 7.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 to 18 for such hours and periods of the day as are determined by the DOLE secretary but forbids the employment of persons less than 18 years of age in hazardous or dangerous work. However, child labor remained a common problem, and a significant number of children were employed in the informal sector of the urban economy as domestic workers or as unpaid family workers in rural agricultural areas--some as bonded laborers. The government estimated that there were approximately four million working children, an estimated half of whom were exposed to hazardous working environments, in industries such as quarrying, mining, deep-sea fishing, pyrotechnic production, and agriculture, especially sugar cane plantations.

Most child labor occurred in the informal economy, often in family settings. The government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop 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 during the year, resources remained inadequate.

The government and NGOs implemented programs to prevent the engagement of children in exploitive child labor; they educated communities on child labor and provided counseling and other activities for children. The DOLE and the DepEd worked with NGOs to assist children to return to school, and UNICEF and the ILO continued to work with the government on programs for the reduction of child labor. The government also imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. The trial continued for a Metro Manila garment factory that employed 10 child laborers. In October the DOLE issued a circular that provides that businesses found guilty of violating the child labor law more than three times would face closure. The DOLE continued its efforts to remove child workers from hazardous situations. From January to March, the DOLE conducted six rescue operations, removing 65 minors.

#### 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 responsible for setting minimum wages did not approve an increase during the year. Under a new law, minimum wage earners are exempt from paying income tax. The highest minimum wage rates were in the National Capital Region, where the minimum daily wage for nonagricultural workers was 382 pesos (\$8.02). The lowest minimum wage rates were in the Southern Tagalog Region, where daily agricultural wages were 187 pesos (\$3.92). The regional wage board orders covered all private sector workers except domestic servants and others employed in the service of another person; these persons were frequently paid less than the minimum wage. Boards exempted some newly established companies and other employers from the rules because of factors such as business size, industry sector, export intensity, financial distress, and level of capitalization. These exemptions excluded substantial numbers of workers from coverage under the law. The regional wage boards of the National Wage and Productivity Commission did not release any wage exemption decisions during the first half of the year. Unions filed complaints about the minimum wage exemption policies.

Violation of minimum wage standards and the use of contract employees to avoid the payment of required benefits were common, including in the government-designated SEZs, where tax benefits were used to encourage the growth of export industries. According to a January to June Bureau of Working Conditions report, 497 of 1,208 inspected firms were found

to have violated labor or occupational safety and health standards. Many firms hired employees for less than the minimum apprentice rates, even if there was no approved training in their production-line work. The DOLE inspects establishments that employ 10 to 199 workers to determine compliance with national labor laws. Establishments employing 200 or more persons and unionized establishments with collective bargaining agreements are subject to self-assessment of compliance with labor standards. The DOLE provided training and advisory services to enterprises with less than 10 workers to help them comply with national labor laws and core labor standards. From January to June, 46 percent (554 out of 1,208) of commercial establishments inspected by the DOLE were not in compliance with the prevailing minimum wage. The DOLE acknowledged that the shortage of inspectors made it difficult to enforce the law. In addition to fines, the government also used administrative procedures and moral suasion to encourage employers to rectify violations voluntarily. 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 eight-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 one 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. From January to June, DOLE labor inspectors made 1,208 inspections to check on companies' compliance with general labor and working standards. Labor groups maintained that forced overtime was common.

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 inspectors nationwide, local authorities often must carry out enforcement. The DOLE continued 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. Through June the DOLE conducted inspections of 1,208 establishments on occupational safety standards compliance, 912 or 75 percent of which were able to comply upon inspection. 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 overseas citizens, most of whom were temporary or contract workers. The government placed financial sanctions on and criminal charges against 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. They are not allowed to join or form unions.