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U.S. Department of State

Poland Country Report on Human Rights Practices for 1997

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POLAND

Poland is a parliamentary democracy based on a multiparty political system and free and fair elections. The President shares power with the Prime Minister, the Council of Ministers, and the bicameral Parliament (Senate and Sejm). Poland has held two presidential and three parliamentary elections in the 8 years since the end of communism. For much of the year, the governing coalition, composed of the Democratic Left Alliance (SLD), a successor to the former Communist Party, and the Polish Peasant Party (PSL), a successor to the Peasant Party of the Communist era, had a nearly two-thirds majority in both houses of Parliament. In parliamentary elections held on September 21, Solidarity Electoral Action (AWS)--a broad coalition of rightist, center-right, and Christian-national parties anchored by the Solidarity trade union--gained 33.9 percent of the vote. The new Government is a two-party coalition composed of AWS and its junior partner, the centrist Freedom Union (UW). The judiciary is independent.

The internal security forces and armed forces are subject to effective civilian control by the Government. Since 1996 the civilian Minister of Defense has clear command and control authority over the military chief of the general staff as well as oversight of military intelligence. The Government continues actively to reform the military to prepare for full membership in NATO.

Poland has made a successful transition to a free market economy. A large and growing private sector and increasing exports to Western Europe have helped fuel a 6.1 percent rate of growth in 1996 and an estimated 6.3 percent rate of growth in 1997. Inflation at the end of the year (at 13.3 percent) and

unemployment (at 10.6 percent) remained high but were declining. Since 1989 most small- and sized, state-owned enterprises have been privatized. The new Government has pledged to speed the long-delayed privatization of many of the largest enterprises (e.g., the telephone company, power plants, the national airline). Generous social and retirement programs place an enormous strain on the budget and impede economic growth. The Government intends to implement pension reform in 1999. The fiscal and monetary authorities are pursuing more restrictive policies to deal with a growing current account deficit that, if left unchecked, could create the risk of a financial crisis.

The Government generally respected the human rights of its citizens, but there were some problems. Prison conditions are poor. Lack of public confidence as well as a cumbersome legal process and an inadequate budget plague the court system. Court decisions are frequently not implemented, particularly those of the administrative courts, and simple civil cases can take as long as 2 or 3 years. Many poorly paid prosecutors and judges left public service for more lucrative employment. The threat of organized crime has provoked legislative responses that could pose a threat to the right to privacy. Freedom of speech and the press were subject to some minor limitations. Women continue to experience serious discrimination in the labor market and are subject to various legal inequities as a consequence of paternalistic laws. Trafficking in women is a growing problem, as is spousal abuse, and there is some societal discrimination against ethnic minorities. The President and the Government have worked constructively toward resolving issues of concern to the Jewish community. Although the right to organize unions and bargain collectively was largely observed, some employers violated worker rights provided by law, particularly in the growing private sector.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

However, in March an off duty police officer in Brodno, a suburb of Warsaw, was arrested in connection with the shooting deaths of two unarmed civilians and the wounding of another in unclear circumstances. The officer was suspended from the police force and was forced to undergo psychiatric evaluation to determine his ability to stand trial. He was indicted on murder and reckless endangerment charges in December. A trial date had not been set by year's end. In May the regional prosecutor in Biala Podlaska opened an investigation into the possible murder of a 19-year-old man who was shot during police questioning. In November a provincial court in Lublin indicted the Lomazy police chief in the case. Three additional Lomazy police officers were indicted for assault, false arrest, and failure to follow proper police procedure in connection with the detention and beating of the 19-year-old's companion.

In November a Wroclaw court sentenced two police officers, one to 7 years in prison and the other to 4 years, in connection with the 1995 murder of a 17-year-old boy and the attempted murder of another man. Both were shot when the two off-duty officers, intoxicated and angry after being rejected by a prostitute, began firing their service revolvers.

In March two police officers accused in the 1983 beating death of high school student Grzegorz Przemyski were convicted and sentenced to 10 years in prison. The police were accused of covering up the death and blaming it on the ambulance drivers who took Przemyski to the hospital. Both men appealed their convictions. A third police officer, accused of obstructing the investigation by hiding documents, was sentenced to 3 years in prison.

Trials relating to extrajudicial killings during the Communist period, including the deaths of striking shipyard workers in December 1970 and the deaths and jailing of activists after the 1981 declaration of martial law, continued. During the 1½ years of martial law, approximately 25 citizens died in clashes between striking workers and riot police, and the government jailed without trial more than 13,000 people. In July a Gdansk court ruled that martial law architect General Wojciech Jaruzelski, for health reasons, would not have to stand trial. In November, after a trial that lasted nearly 4 years, a provincial court in Katowice acquitted 22 riot police of murder charges stemming from the same incident, citing a lack of evidence of the officers' direct involvement in the miners' deaths. Public reaction was generally muted. A few days later, the Warsaw Court of Appeals set aside the July 1996 acquittal of former Interior Minister General Czeslaw Kiszczak for his role in the Wujek mine's pacification. Kiszczak's case was returned to the regional court for retrial. The trial of five former senior army and police officers charged in connection with the deaths of 44 demonstrators during the December 1970 riots again was postponed. Although proceedings in that case were instituted in 1995, the trial has not yet begun formally, as defendants continue to produce medical statements certifying their inability to appear in court. The trial was scheduled to resume in January 1998.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Criminal Code prohibits torture, and there were no reported incidents of it.

Several investigations into incidents of police brutality or misconduct are ongoing. In March three police officers in Bysom were arrested and charged with the rape of seven underage detainees, ranging in age from 11 to 17 years. The men were discharged from the police force and put in prison pending trial. In October two of the seven victims appeared in a Katowice provincial court to testify. Progress in the case has been slowed, however, due to the other girls' reluctance to testify. At year's end the trial was continuing.

In November disciplinary proceedings were started against 18 riot police for their participation in the October beating of soccer fans attending a match in the town of Gdynia. By year's end, three of the officers received a verbal reprimand, two were declared unfit for service and placed on probation, one resigned, and one was exonerated. The remaining 11 cases were still pending. The officers' activities, which took place before, during, and after the match, both at the stadium and at a nearby bar, were captured on videotape. The Gdansk prosecutor launched an official investigation that was ongoing at year's end.

In May the Independent Union of Students (NZS) and the Federation of Fighting Youth (FMW) filed a complaint with the regional prosecutor's office against Leszek Miller, Minister of Internal Affairs and Administration, in connection with violence that broke out during a rally organized by the All-Poland Trade Union Alliance (OPZZ). The authors of the complaint contend that Miller, who addressed the rally, "must have seen and heard" participants attack two young people and journalists, but did nothing to stop the assault. The students also claim that the police "did not intervene and failed to disperse the gathering." An investigation is pending.

In December an Olsztyn court granted the appeal of two Szczytno police officers found guilty of beating two men detained for questioning in September 1996. The case was returned to the Szczytno regional court for retrial. Four policemen in Legnica province were acquitted of 1995 charges that they beat

underage minors.

In July the Supreme Court ruled that the law did not permit the extradition to China of Mr. and Mrs. Mandugeqi, a Chinese couple accused of embezzling approximately \$1 million. The Supreme Court's decision overturned the March verdict of the Warsaw court of appeal, which had stated that the extradition was legal. The Mandugeqis were apprehended in Warsaw's Okecie airport on the basis of an international warrant on August 10, 1995. The first court that ruled on the case denied the extradition case filed by Chinese authorities, arguing that if extradited, the couple might be subject to torture and other inhuman treatment forbidden under international conventions protecting human rights and basic civil liberties.

In May Adam Humer filed an appeal with the Warsaw district appellate court against his March 1996 conviction and 9-year sentence for the torture of prisoners when he was a security service interrogator in the 1950's.

Prison conditions, although rapidly approaching minimum international standards, are still generally poor, according to reports by nongovernmental organizations. Some facilities are old and in disrepair, and many experience overcrowding. In a May letter to the Prime Minister, the Ombudsman for Human Rights charged that the condition of many detention facilities and prisons was poor and recommended that several dozen be closed in whole or in part for renovation. The Ombudsman also recommended that actions be taken to reduce the prison population, including the decriminalization of certain offenses, such as failure to pay alimony. He pointed out that Poland had a very poor ratio of prisoners to rehabilitation officers and complained about the safety of prisons, noting that inmates were often the victims of violence from other prisoners. In September 1996, for example, an 18-year-old mentally retarded boy was beaten and sodomized by fellow inmates. Those found guilty of the rape were convicted and sentenced to 10 additional years in prison. A civil trial against the prison administration for wrongful neglect was pending. Attorneys for the boy asked for approximately \$30,000 (100,000 PLN) in damages.

The Government permits human rights monitors to visit civilian prisons.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government observes this prohibition. Courts rather than prosecutors issue arrest warrants. The law allows a 48-hour detention period before authorities are required to bring a defendant before a court, during which access to a lawyer is normally denied. Once a prosecutor presents the legal basis for a formal investigation, the law provides for access to counsel. Detainees may be held under "temporary" arrest for up to 3 months and may challenge the legality of an arrest through appeal to the district court. A court may extend this pretrial confinement period every 3 months until the trial date. Bail is available, and human rights organizations report that most detainees are released on bail pending trial.

In June the Sejm adopted a new Criminal Code and Code of Criminal Procedure. The new codes, which go into effect on September 1, 1998, are the culmination of an 8-year effort to restructure the criminal justice system. The new law parallels provisions of the new Constitution that extend the 48-hour "initial arrest" phase permitted under current law to 72 hours and provide detainees with a limited right to counsel. In this regard, arrestees currently may meet with their attorneys only in the presence of arresting authorities. Under the new Constitution, the right to counsel is provided for at all stages of a criminal proceeding. In the event arrestees are ordered by the court to be detained pending completion of an investigation, prosecutors may monitor all contacts between detainees and their counsel during the

first 14 days of detention.

In December the editor-in-chief, deputy editor-in-chief, and publisher of the weekly news magazine *Wprost* were taken from their homes by separate police teams and questioned for several hours in connection with embezzlement charges. They were then ordered not to leave the country, deprived of their passports, and released on approximately \$7,500 (25,000 PLN) bail pending trial. The Polish Press Freedom monitoring Center criticized the journalists' treatment as a threat to press freedom. The three men denied the charges and described the detention as a scandal and an instance of "Stalinist prosecutorial methods." The next day, the Poznan regional court ruled that the orders to detain the men were groundless and lifted the orders, forcing the return of their passports and bail money. The prosecutor was suspended. The embezzlement charges, initiated by *Wprost's* former business partner, are pending. The Helsinki Foundation for Human Rights promised to monitor the prosecutor's future actions in the case.

The Government does not employ forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice.

A three-tier court system consists of regional and provincial courts and a Supreme Court, which is divided into five divisions: military, civil, criminal, labor, and family. Judges are nominated by the National Judicial Council and appointed by the President. Judges are appointed for life and can be reassigned but not dismissed, except by a court decision. The Constitutional Tribunal rules on the constitutionality of legislation, but its decisions may be overruled by a two-thirds majority in the Sejm. The new Constitution, approved by the Sejm in April, ratified in a national referendum in May, and in force as of October 16, renders Constitutional Tribunal decisions final and binding, effective after a 2-year interim period.

The courts generally provide fair trials, and there is no evidence of significant corruption. However, the court system continues to be plagued by a cumbersome legal process, poor administration, and an inadequate budget, all of which contribute to a lack of public confidence. Many effective judges and prosecutors have left public service for the more lucrative private sector. Court decisions are frequently not implemented, particularly those of administrative courts. Bailiffs normally ensure the execution of civil verdicts such as damage payments and evictions. According to some observers, however, they are underpaid, subject to intimidation and bribery, and have a mixed record of implementing court decisions. Civil and administrative rulings against public institutions such as hospitals often cannot be enforced due to a lack of funds. Simple civil cases can take as long as 2 to 3 years before resolution, and the pretrial waiting time in criminal cases can be several months. In 1996, the latest year for which figures are available, in the Warsaw district alone, 4,000 cases (approximately 15 percent of the total caseload) were pending for over a year without even an initial hearing. The backlog and the costs of legal action seem to deter many citizens from using the justice system at all, particularly in civil matters such as divorce. The long wait for routine court decisions in commercial matters is an incentive for bribery and corruption.

In August the European Court of Human Rights took up the first complaint lodged by a Polish citizen regarding protracted court proceedings. The plaintiff, a 70-year-old woman from Stalowa Wola, was assaulted by her neighbor in 1988. In 1990 a court found him guilty. The woman subsequently filed a civil suit in connection with the attack. A verdict was issued in 1996, and the interest accrued from 1988

was awarded, 6 years after the complaint was filed. The plaintiff claimed that the 6-year wait for the verdict violated the European human rights convention signed by Poland in 1991, which assures citizens the right to a just and public consideration of their case in "reasonable time." The European Court ruled against the plaintiff on December 16 on the grounds that the plaintiff herself was partly to blame for the procrastination.

All defendants are presumed innocent until proven guilty. At the end of a trial the court renders its decision orally and then has 7 days to prepare a written decision. A defendant has the right to appeal within 14 days of the written decision. Appeals may be made on the basis of new evidence or procedural irregularities.

Criminal cases are tried in regional and provincial courts by a panel consisting of a professional judge and two lay assessors. The seriousness of the offense determines which is the court of first instance. Once formal charges are filed, the defendant is allowed to study the charges and consult with an attorney, who is provided at public expense if necessary. Once the defendant is prepared, a trial date is set. Defendants are required to be present during trial and may present evidence and confront witnesses in their own defense. Since 1995 prosecutors have had the authority to grant witnesses anonymity at trial if they express fear of retribution from the defendant. This law, designed to help combat organized crime, seriously impairs defendants' right to confront their accusers. In 1996 reforms were made that provide for a two-level appeal process in most civil and criminal matters; previously, citizens enjoyed access only to a one-step appeal process.

Trials are normally public. The courts, however, reserve the right to close a trial to the public in some circumstances, such as divorce cases, trials in which state secrets may be disclosed, or cases whose content might offend "public morality." The courts rarely invoke this prerogative.

In 1996 the Sejm accepted a select committee report concluding that the intelligence services may have acted illegally in gathering evidence in the investigation of former premier Jozef Oleksy. The report recommended that these findings be passed to the prosecutor's office, which would decide whether to investigate the intelligence officers involved in the case. Although the office of the Speaker of the Sejm officially passed the findings to the Warsaw prosecutor in January, the prosecutor decided not to pursue criminal investigations against the officers involved. Sejm deputies also collected the number of signatures necessary to eventually launch state tribunal proceedings against former interior minister Andrzej Milczanowski for his role in the case. The signatures were passed to the Sejm committee for constitutional responsibility for further action; however, no additional action occurred by year's end.

There were no reports of political prisoners.

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

The Constitution provides for the right to privacy of correspondence. There is no legislation that provides for the general right to privacy. In response to the growing threat of organized crime and money laundering, Parliament has permitted the police and intelligence services to monitor private correspondence and to use wiretaps and electronic monitoring devices in cases involving a serious crime, narcotics, money laundering, or illegal arms sales. The Minister of Justice and the Minister of Interior, both political appointees, must authorize these investigative methods. In emergency cases, the police may initiate an investigation that utilizes wiretaps or the opening of private correspondence at the same time that they seek permission from the ministers.

Parliamentarians and human rights groups have expressed concern about the lack of control over this

type of surveillance. There is no independent judicial review of surveillance activities, nor is there any control over how the information derived from these investigations is used. A growing number of agencies have access to wiretap information, and a recent law allows electronic surveillance to be used for the prevention of crime as well as for investigative purposes. In the first half of 1996, the latest period for which statistics are available, the Justice Minister agreed to the surveillance of 727 individuals. Also in 1996, the Minister of Interior confirmed that Office of State Protection (UOP) intelligence employees pose as post and telecommunications employees.

In September the special Sejm Committee on Security Services announced that the UOP "may have" acted illegally against rightwing politicians in 1993, adding that only an independent court could rule if the law was violated at that time. The Committee made the announcement after examining documents submitted by UOP head Andrzej Kapkowski. Investigations were launched when Minister for Special Services Zbigniew Siemiatkowski alleged that the UOP carried out illegal activities in the spring of 1993, including the forging of documents, in order to discredit rightwing parliamentary candidates. Siemiatkowski also alleged that these activities were conducted with the knowledge of then Internal Affairs Minister Andrezej Milczanowski and then UOP head Jerzy Konieczny. Both Milczanowski and Konieczny have denied the accusations. Siemiatkowski then turned the case over to the prosecutor's office for further investigation. The Warsaw prosecutor's office officially opened proceedings against five UOP officers in October.

The law forbids arbitrary forced entry into homes. Search warrants issued by a prosecutor are required in order to enter private residences. In emergency cases, when a prosecutor is not immediately available, police may enter a residence with the approval of the local police commander. In the most urgent cases, in which there is no time to consult with the police commander, police may enter a private residence after showing their official identification. There were no reports that police abused search warrant procedures.

The Ombudsman for Human Rights advocates reform of the rules governing how citizens are registered in their official places of residence. Current law requires all adults to be officially registered at a given address and allows them access to public services established in that locality. However, the law also permits property owners to "unregister" tenants from rented residences, effectively cutting citizens off from public services if they cannot immediately find another landlord willing to let them register.

A new law compelling political leaders to reveal past collaboration with Communist era secret police--the so-called "lustracja" or vetting/lustration law--took effect in August. The law requires candidates for high government office, including those for President, the Sejm, the Senate, Prime Minister, or other office that requires nomination by the President or Prime Minister, to sign a declaration stating whether or not they cooperated with Poland's secret services at any time between 1944 and 1990. Although the law does not provide for the punishment of those who admit to having collaborated, any Sejm or Senate candidate found to have lied in his or her declaration is to be removed from office. Any other government official found to have made false statements is to be excluded from public office for 10 years. The attempt to establish the special vetting court called for in the legislation failed, however, when only 20 candidates could be found for the 21 seats on the court. The vetting/lustration law is expected to be amended.

In December the Sejm passed a draft law requiring similar vetting/lustration of judges. The law envisages the possible removal from service of judges proven to have violated judicial independence by issuing unjust verdicts between 1944 and 1989 at the request of the Communist authorities. Disciplinary proceedings against the judges in question could be initiated by the Minister of Justice, the presidents of the appellate or regional courts, the National Judiciary Council, or individuals who feel wronged by court verdicts. The draft law awaits Senate consideration.

Men are not permitted to marry until the age of 21, whereas women may marry at the age of 18 (see Section 5).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, and the Government generally respects this right. The press is lively and independent. However, there are some marginal restrictions in law and practice.

The print media are uncensored and independent, although they may be subject to prosecution under the provisions of the Penal Code.

The Penal Code states that acts that "publicly insult, ridicule, and deride the Polish nation, the Polish Republic, its political system, or its principal organs are punishable by between 6 months and 8 years of imprisonment." The code calls for a prison term of up to 10 years for a person who commits any of the prohibited acts in print or through the mass media. In 1995 presidential candidate Leszek Bubel was charged with violating this law, and his case remains before a judge. Bubel claimed on a radio program that when he served as deputy prosecutor general, a former head of the presidential Chancellery protected a group of criminals. The Gdansk prosecutor announced an investigation into 1996 remarks by talk show host Wojciech Cejrowski, who is alleged to have publicly insulted president Kwasniewski. The case is still pending before a judge. In September President Kwasniewski filed a private lawsuit against the *Zycie* and *Dziennik Baltycki* newspapers, which accused him of contacts with Russian spy Vladimir Alganov during his 1994 vacations. Although Kwasniewski withdrew the suit against *Dziennik Baltycki* when its editor-in-chief retracted the newspaper's charges, the suit against *Zycie* is still pending. Kwasniewski claims that *Zycie's* articles violated his good name and demands that the newspaper apologize to him and pay approximately \$76,000 (2.5 million PLN) for flood victims. *Zycie* denies that the law has been violated and maintains that its journalists acted in the public interest.

In November the Torun regional prosecutor issued an order for controversial Catholic radio priest Father Tadeusz Rydzyk to be brought to the office by force. Rydzyk, the prosecutor charged, ignored five sets of summonses to appear for questioning for offending supreme state bodies. The prosecutor's office carried out an investigation of Rydzyk at the request of a group of Parliamentarians who voted for the liberalization of the abortion law. The parliamentarians were offended when they were compared on the air to criminals who collaborated with the Nazis during World War II. Father Rydzyk eventually presented himself at the prosecutor's office on his own initiative. An investigation of Rydzyk, who currently faces the lesser charge of insulting public functionaries, was ongoing at year's end.

The Penal Code provides for punishment of anyone who uses print or other mass media to "advocate discord" on national, ethnic, racial, or religious grounds. The investigation continues in the case of Mikolaj Siwicki, a Warsaw pensioner. In 1996 the Warsaw prosecutor's office brought charges against Siwicki for publication of a hate-mongering book, which, the prosecutor charged, "could seriously damage the interests of the Polish Republic in international affairs." The book allegedly condones crimes committed by Poles during the World War II, makes historically dubious claims about Polish crimes against the Ukrainian nation, and calls for lands in southeastern Poland to be given to Ukraine.

The Penal Code also stipulates that offending religious sentiment through public speech is punishable by a fine or a 2-year prison term. In 1995 a provincial court charged presidential candidate Leszek Bubel with violating this article by publishing a pamphlet containing anti-Semitic humor. A verdict was

pending at year's end. In July Ryszard Bender filed a complaint against Jerzy Urban, editor-in-chief of the leftist tabloid Nie, for insulting the Pope during his visit. The complaint stemmed from a Nie article entitled "We welcome Brezhnev of the Holy See." Bender claimed that associating the Pope with Leonid Brezhnev was offensive. The prosecutor eventually decided not to pursue the case. Catholic organizations also have used the provision. In December Tadeusz Rydzyk and All-Polish Youth director Roman Giertych, both acting on behalf of the Council for the Coordination of the Defense of the Dignity of Poland and Poles, filed charges against the leftist daily Trybuna for insulting the Pope in one of its November articles. Rydzyk and Giertych were particularly offended by the characterization of the Pope as a "boorish vicar," by the reference to one of his statements as "dirty and mumbling," and by the suggestion that he used his position to make slanderous statements. According to one press report, the newspaper's editor-in-chief already apologized for the article twice. The Ministry of Justice is conducting an investigation.

The State Secrets Act allows for prosecution of private citizens who have published or otherwise betrayed state secrets. Human rights groups have criticized this law, since it restricts the right of free speech of private citizens who have not sworn freely to uphold state secrets.

In 1995 the Supreme Court ruled that a prosecutor or a judge, in the context of a criminal trial, may order a journalist to divulge the name of a source. The penalty for noncompliance is a fine of approximately \$2,000 (5,000 PLN) and 1 month in jail. In January a case was brought against Gazeta Wyborcza journalist Jerzy Jachowicz for refusing to reveal a source who had given him secret court information regarding the Oleksy affair. Similar charges were brought against Aleksander Checko and Karol Maluczynski--then editors of the Zycie Warszawy--in March. Their case has since been dismissed. A new Criminal Code scheduled to take effect on September 1, 1998, however, regulates the protection of journalistic sources. The new code grants news sources absolute protection, except in cases involving national security, murder, and terrorist acts. Pursuant to the law, statutory provisions are applied retroactively if their terms are beneficial to the accused. Journalists who refused to divulge sources prior to the new code's enactment can avoid sanctions by invoking "journalistic privilege" after the new code's entry into force.

There is no restriction on the establishment of private newspapers or distribution of journals; private newspapers and magazines flourish. While RUCH, the national network of newspaper kiosks, remains state hands, there is no evidence that the Government has used its control over distribution to suppress any publications. Progress on government plans to privatize the company in 1996 slowed when the bidding process was reopened after having reached near completion. A civil suit initiated by the original winner of the bidding process was pending at year's end.

The National Radio and Television Broadcasting Council (KRRiTV) has broad interpretive powers in monitoring and regulating programming on public radio and television, allocating broadcasting frequencies and licenses, and apportioning subscription revenues. In order to encourage the KRRiTV'S apolitical character, the nine KRRiTV members are legally obliged to suspend any membership in political parties or public associations. They are, however, chosen for their political allegiances and nominated by the Sejm, the Senate, and the President following political bargaining, raising serious questions about the independence of broadcasting oversight from political influence. In April, for example, SLD party member Adam Halber was elected to the council. Five of the KRRiTV'S nine members now have political ties to either the SLD or the PSL.

The broadcasting law stipulates that programs should not promote activities that are illegal or against state policy, morality, or the common good. The law also requires that all broadcasts "respect the religious feelings of the audiences and in particular respect the Christian system of values." The law, however, does not fully define the term "Christian values." The Constitutional Tribunal has confirmed

the constitutionality of this provision. Since the KRRiTV has the ultimate responsibility for supervising the content of programs, these restrictions could be used as a means of censorship if enforced, but they were not in 1997. The penalty for violating this provision of the law is a fine of up to 50 percent of the annual fee for the transmission frequency or suspension of the broadcaster's license.

Private television broadcasters operate on frequencies selected by the Ministry of Communications and auctioned by the KRRiTV. The first auction in 1994 gave Polsat Corporation and some smaller local and religious stations licenses to broadcast. In February additional licenses were granted to TVN and Nasza Telewizja. TVN began broadcasting in October while Nasza Telewizja is expected to begin transmissions in January 1998. Private radio flourishes on the local, regional, and national levels alongside public radio. A new radio station, Radio Trefl, began broadcasting in September.

The Government owns the two largest television channels and many local stations, as well as five national radio networks. PAP, the national wire service, was partially privatized in December. Former Reuters journalist Robert Bogdanski heads a five-member supervisory board that has 2 years in which to prepare the service for full privatization. Although public television remains the largest source of news and information, satellite television and private cable services (domestic and foreign) are widely available. Cable services carry the main public channels, Polsat, local and regional stations, and a variety of foreign stations.

The law on radio and television requires public television to provide direct media access to the main state organs, including the presidency, "to make presentations or explanations of public policy." The Government sometimes complains of a lack of attention to its point of view, particularly that of the President and Prime Minister, but there is a history of charge and counter-charge. Both public and private radio and television provide coverage of all ranges of political opinion. Nevertheless, political patronage in filling key positions continues to threaten the professional credibility of public television, still the most influential broadcast media.

Government or partisan efforts to exert influence in public television were generally more indirect: it is unclear what the effect, if any, has been on programming. In March, for example, Jacek Bochenek, then Television Information Agency (TAI) programming chair, transferred under pressure to a correspondent position in Brussels. The head of the main television news program also acquiesced to a lateral move, although his replacement is regarded as a neutral professional. The KRRiTV'S August 7 election of new supervisory boards for public radio (PR) and public television (TVP), intermediary bodies between the KRRiTV and the respective managing boards, was clearly political. Seven of the nine positions on both boards are now occupied by persons from either the SLD or the PSL. The remaining two members of the TVP supervisory board, Marek Zdrojewski of the Solidarity Electoral Action (AWS) and Wojciech Marczewski of the Freedom Union (UW), resigned their positions in protest. They were replaced in November by Lech Jaworski, supported by the right, and Marcin Krzyzanowski, supported by the Freedom Union (UW). The final composition of the new boards led KRRiTV chairman Boleslaw Sulik to declare August 7 a "black day" for the public media in Poland.

Evidence of overt political tampering in public broadcasting remains scarce, and watchdog organizations are alert to expose quickly any such tampering. There was one incident in which the Government sought to influence media reporting. In March government press spokeswoman Aleksandra Jakubowska accused public television's news desk of manipulating its coverage of a protest by Solidarity members that had occurred at the Treasury Ministry building days before. The incident was filmed by the police, but public television cameramen were not allowed to enter the building. The day after the event, the government press office supplied a 6-minute videocassette with police footage to both public television and a private station. Public television broadcast the tape, but edited out several minutes from its broadcast. Jakubowska complained of "deliberate misinformation of the public by showing a distorted

picture of the developments." Jacek Snopkiewicz, the recently appointed head of TVP news, countered that the 6-minute tape itself presented a distorted view of the events and accused Jakubowska of attempting to exert pressure on public media.

Books expressing a wide range of political and social viewpoints are widely available, as are foreign periodicals and other publications from abroad.

In August billboards that carried the message "Stay cool. It's O.K. Condoms prevent AIDS" were taken down in several towns and small cities throughout the country under public pressure. The billboards, which were intended as a public service campaign against AIDS, pictured a black and white drawing of a man's hand in the "thumbs up" position. The man's up-stretched thumb sported a bright pink condom. Those objecting to the advertisements purported to do so on scientific grounds, claiming that the advertisement suggested that condoms were a sure way to prevent AIDS when studies have shown that they are not 100 percent reliable. In March complaints were filed with both the Warsaw prosecutor's and the Krakow prosecutor's offices in connection with a billboard advertising the American film "The People vs. Larry Flynt." The complaints argued that the billboards offended religious sentiment. The advertisement pictured a drawing of a man, his arms and legs outstretched in a crucifixion position, superimposed on a larger drawing of a woman's lower half. The Krakow prosecutor is pursuing an investigation.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government generally respects this right in practice. Permits are not necessary for public meetings but are required for public demonstrations; demonstration organizers must obtain these permits from local authorities if the demonstration might block a public road. For large demonstrations, organizers are also required to inform the local police of the time and place of their activities and their planned route. Every gathering must have a chairman who is required to open the demonstration, preside over it, and close it.

In March city authorities for the first time in years denied the Solidarity trade union permission to demonstrate along a central thoroughfare traditionally used for labor protests. Marchers determined to proceed along their usual demonstration route then clashed with police cordons that blocked the way.

The law provides for freedom of association, and the Government generally respects this right in practice. Private associations need governmental approval to organize and must register with their district court. The procedure essentially requires the organization to sign a declaration to abide by the law. In practice, however, the procedure itself is complicated and may be subject to the discretion of the judge in charge.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. Citizens enjoy the freedom to practice any faith they choose. Religious groups may organize, select and train personnel, solicit and receive contributions, publish, and engage in consultations without government interference. There are no government restrictions on establishing and maintaining places of worship. More than 95 percent of Poles are Roman Catholic, but Eastern Orthodox, Greek Catholic, and much smaller Protestant, Jewish, and Muslim congregations meet freely. Although the Constitution provides for the separation of church and state, state-run radio broadcasts Catholic mass on Sundays.

The Catholic Church is authorized to relicense radio and television stations to operate on frequencies assigned to the Church, the only body outside the KRRiTV allowed to do so.

The Ombudsman continued his investigation into the human rights implications of the "Soldier's Prayer Book," a 1995 book authored by General Kazimierz Tomaszewski, chief of the Warsaw Military District. The book states that members of a special honor guard who do not take part in military mass are considered to be disobeying orders. While this publication does not constitute law, it bears the same weight.

Although the new Constitution gives parents the right to bring up their children in compliance with their own religious and philosophical beliefs, religious education classes continue to be taught in the public schools at public expense. While children are supposed to have the choice between religious instruction and ethics, the Ombudsman's office states that in most schools ethics courses are not offered due to financial constraints. Although Catholic Church representatives teach the vast majority of religious classes in the schools, parents can request religious classes in any of the religions legally registered, including Protestant, Orthodox, and Jewish religious instruction. Such non-Catholic religious instruction exists in practice, and the instructors are paid by the Ministry of Education. The joint State-Episcopate Commission announced in 1996 that priests would receive salaries from the state budget for teaching religion in public schools; payment of such salaries began in September. Church representatives are included on a commission that determines whether books qualify for school use.

A government-proposed resolution on ratification of the Concordat, a treaty regulating relations between the Government and the Vatican signed in 1993, as well as a number of Concordat-related bills, remained under consideration in the Sejm at year's end. Critics of the Concordat have called for legislation requiring the Church to register all church marriages with civil authorities and forbidding the church from denying burial to non-Catholics in cemeteries that it controls.

In August the Senate rejected an amendment to the Law on Education that banned grades in religion from appearing on school report cards. Proponents of the amendment argued that knowledge of a student's attendance or lack of attendance in religion courses could be cause for discrimination when a graduate applied to a university or undertakes employment. The bill, which also limited religious instruction in kindergartens, was returned to the Sejm for further action.

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

Although the Constitution does not address freedom of movement, the Government does not restrict internal or foreign travel. Citizens who leave Poland have no trouble returning. There are no restrictions on emigration.

The Government generally cooperates with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. There are no reports of forced repatriation of those having a valid claim to refugee status. Foreigners recognized as refugees under the 1951 U.N. Convention Relating to the Status of Refugees are granted full refugee status and permission to remain permanently. According to UNHCR figures, approximately 2,900 individuals applied for refugee status during the first three quarters of 1997. Of the 4,000 applications awaiting decision (including the 1,100 applications carried over from 1996), 121 were approved and 404 were denied, while 2,349 were discontinued due to the applicant's failure to appear for a hearing. The remaining cases are pending.

In September the President signed a new law on immigration, which human rights organizations

generally view as a positive development. Initiated 2 years ago, the new law gives all prospective refugees access to a procedure for adjudicating refugee status and establishes an independent council to which prospective refugees can appeal negative status decisions by the Ministry of Internal Affairs. The law does not recognize the concept of first asylum or any other form of temporary protection.

Although some observers have criticized the authorities for using deportation centers in lieu of refugee centers (when the latter are full), as well as for long delays in the initial review of refugee status applications, the Government cites a lack of resources as a major cause of the problems. Deputy Minister of Internal Affairs Katarzyna Piekarska admitted in April that the time taken to review refugee status applications was too long. She noted, however, that only nine people were reviewing several thousand applications.

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

Citizens have the right and ability to change their government peacefully. This right is provided for in the Constitution and exists in practice. Poland is a multiparty democracy in which all citizens 18 years age and older have the right to vote and to cast secret ballots.

Executive power is divided between the President and a government chosen by the Sejm, or lower house of Parliament. There is also an upper house (the Senate). The Constitution provides for parliamentary elections at least every 4 years. The President, elected for 5 years, has the right to dissolve Parliament following a vote of no confidence or when Parliament fails to pass a budget within 3 months after the government submits it. Parliament may impeach the President. The electoral law exempts ethnic minority parties from the requirement to win 5 percent of the vote nationwide in order to qualify for seats in individual districts.

A permanent, democratic Constitution was passed by the Sejm in April and approved in a nationwide referendum on May 25. The new document came into force on October 16. The interim Constitution consisted of the "Small Constitution" of 1992, governing the structure of government, and several sections of the 1952 Communist-era Constitution, including a Bill of Rights. The latter includes so-called economic rights.

Women are underrepresented in government and politics. Only 13 percent of parliamentarians are women while only 3 of the 23 cabinet ministers are women. The Speaker of the Senate is the only female parliamentary leader, while none of the leaders of the nation's largest political parties are women. Prime Minister Wlodzimierz Cimoszewicz chose a team of 40 advisers early in 1996, which included only 2 women.

Two members of the German Minority Party are members of Parliament.

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

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views.

The Helsinki Committee, a major nongovernmental organization (NGO), conducted human rights investigations without government interference. Members of the Committee report that the Government displays a generally positive and helpful attitude towards human rights investigations. Some local

NGO's, however, believe that a hostile regulatory climate is developing in parts of the government bureaucracy.

The Office of the Commissioner for Civil Rights Protection (the Ombudsman), established in 1987, is the Government's watchdog for human rights. The Ombudsman's office is an independent body with broad authority to investigate alleged violations of civil rights and liberties. The Ombudsman registers each reported case and files grievances, where appropriate, with the relevant government office. He has no legislative authority and is sworn to act apolitically.

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

The interim Constitution calls for equal rights "irrespective of sex, birth, education, profession, nationality, race, religion, social status and origin." Other clauses provide equal rights to women and religious minorities. The new Constitution states only that "no one shall be discriminated against in political, social or economic life for any reason whatsoever."

Women

Violence against women continues to be a problem, with occasional reports in the press of wife beating and spousal rape. According to statistics released by the Public Research Center in January, 9 percent of women polled admitted to being repeatedly beaten by their husbands and another 8 percent admitted to being sporadically beaten. Women's organizations warn, however, that the number of those suffering from domestic abuse is probably much higher. They explain that, commonly, battered women refuse to admit abuse even to themselves. Government and police statistics do not differentiate between male and female victims of violence. In addition the Government has not provided public information on the problem. Police do intervene in cases of domestic violence, and husbands can be convicted for beating their wives, but statistics provided by the Women's Rights Center suggest that a large majority of convictions result in suspended sentences. In November, for example, a provincial court in Opole sentenced a man to only 2 years in prison and a fine of \$1,000 (3,500 PLN) for the brutal beating death of his wife. The court ruled that the man had not planned to kill his wife and that her death was an unintended result of the beating.

The law has no provision for restraining orders to protect battered women against potential abuse. Women's advocacy groups have complained about the small number of state-supported shelters for battered women.

Trafficking in women is illegal, and two specific provisions in the Criminal Code address this problem. Those convicted of trafficking in women or children may be sentenced to prison for 3 to 10 years. Incidents of trafficking, however, are on the rise. According to a recent report published by La Strada's First Central and East European Program on Prevention of Traffic in Women, 70 cases of trafficking in women were reported during the first 4 months of 1996. The La Strada report noted, however, that available data on trafficking in women is only "the tip of the iceberg." Most victims do not want to speak about their experiences out of fear or shame, and the real scale of the crime is estimated to be at least twice the number of reported cases. The bulk of these cases involve women induced to work as prostitutes in Western Europe after being promised work as domestic workers, nurses, nannies, or teachers. The perpetrators are most often the acquaintances of family or friends, but have been known to include job agencies, talent scouts, and matchmaking services. Poland also serves more and more frequently as a transit country for the trafficking in women from other countries, particularly the former Soviet Union. Women from this area are often forced into prostitution in Poland, then sent on to countries within the European Union as well as Switzerland and Israel.

The problem of sexual harassment is a relatively new one, but women are increasingly talking about it and speaking out against it. While laws specifically addressing sexual harassment do not exist, social awareness is increasing, as are mechanisms with the potential to deal with the problem. The new Criminal Code, for example, states that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to prison for 6 months to 5 years. According to a Supreme Court advisory opinion, such a relationship can occur between employers and employees, between supervisors and subordinates, or between teachers and students. This provision can only be used, however, when sexual harassment occurs between a supervisor and an individual in a subordinate position. It may not be used when the harassment occurs between persons of equal rank.

The Constitution provides for equal rights regardless of sex and grants women equal rights with men in all fields of family, political, social, and economic life, including equal compensation for work of similar value. In practice, however, women are frequently paid less for equivalent work, mainly hold lower level positions, are discharged more quickly, and are less likely to be promoted than men. Ministry of Labor statistics indicate that 57 percent of the unemployed were women and that despite a generally higher level of education, women earn on average 25 percent less than men.

Women are employed in a broad variety of professions and occupations, and a number of women occupy high positions in Government and in the private sector. However, legal barriers, such as clauses in social insurance law limiting child sick care benefits to women only and mandating earlier retirement for women, encourage discrimination in hiring. The law does not address equality in hiring practices (there are no legal penalties for discriminatory behavior in this area), and advertisements for jobs frequently indicate a gender preference. Although women have access to a number of previously forbidden careers since the Labor Code was modified in 1996, they are still prevented from working underground or in jobs that require heavy lifting.

The Ombudsman for Human Rights monitors the rights of women within the broader context of human rights. Observers note that the broad scope of the office's mandate dilutes its ability to function as an effective advocate of women's issues. Within the Cabinet, the "Government Plenipotentiary for Women and the Family" is responsible for providing relevant information to the Government as it formulates policy. Several women's rights NGO's exist. Among the most notable are the Polish Foundation for Women and Family Planning and the Women's Rights Center. These groups are active advocates of gender equality and advance their goals through research, monitoring, and publication. Several church-sponsored women's advocacy organizations also exist, but their cooperation with other women's NGO's is limited.

No progress occurred during the year in amending the 1962 Citizenship Law, which discriminates against women by refusing them the same right as men to transmit citizenship to their foreign-born spouses. In 1994 the average life span for women was 76.8 years; it has been dropping ever since.

Children

The Constitution extends some state protection to the family and children and provides for the appointment of an Ombudsman for children's rights. The Ombudsman had not been appointed by year's end. Education is now mandatory until the age of 18, and public schools are free of charge. The Government sponsors some health programs targeted specifically at children, including a vaccination program and periodic checkups conducted through the schools. However, budget shortfalls prevent complete implementation of these programs. The school system does not provide health education classes for children. Some NGO's have tried to fill this gap: the Batory foundation set up a program to provide health education for children by providing training and instructional materials to a group of teachers, but a spokesperson has acknowledged that the scope of the problem far outstrips this small

program.

There are no procedures in schools to protect children from abuse by teachers; in fact, the teachers' work code provides legal immunity from prosecution for the use of corporal punishment in classrooms.

Prostitution among 12- and 13-year-olds is increasing, and unemployment, alcoholism, and housing shortages have affected the quality of life of children. Moreover, there are no laws explicitly addressing violence against children or corporal punishment. Abuse is rarely reported, and convictions for child abuse are even rarer. There is no societal pattern of abuse of children. Parents have the right to make all decisions concerning their children's medical treatment and education.

There is unequal treatment of young men and women in terms of the age of majority. Youths reach majority at the age of 18 under the Civil Code. However, a young woman can reach majority at the age of 16 if she has entered into marriage with the consent of her parents and the guardianship court. In addition, men are not permitted to marry without parental consent until the age of 21, whereas women may do so at the age of 18. Lawmakers' rationale for this difference in treatment is the assumption that it is better that men entering compulsory military service not be encumbered with families.

People With Disabilities

There are approximately 4.5 million disabled persons, and the number is expected to reach 6 million by the year 2010. In 1995 the Central Bureau of Statistics (GUS) reported that 17 percent of disabled persons able to work are unemployed. Advocacy groups claim that the percentage is much higher. The latest GUS data indicate that 57.3 percent of the disabled have no more than an elementary education, compared with 30 percent of those without disabilities and that only 3.5 percent have a university education, compared with 7.7 percent of the nondisabled.

The Constitution provides for aid to disabled persons "to ensure their subsistence, professional training, and social communication," and a number of laws protect the rights of people with disabilities. Implementation, however, falls short of rights set forth in the legislation. Public buildings and transportation are generally not accessible to people with disabilities; the law provides only that such buildings "should be accessible." The National Museum in Warsaw became the first museum to be adapted to the needs of disabled visitors during the year.

The law creates a state fund for the rehabilitation of the disabled that derives its assets from a tax on employers of over 50 persons, unless 6 percent of the employer's work force are disabled persons. While the fund has adequate resources, its management has been fraught with difficulties, including frequent changes in leadership. According to press reports, the fund has 4,000 grant applications pending. In addition, the fund by law cannot be used to assist disabled children, that is, persons under 16 years of age.

A 1996 law that took effect in September allows individuals from certain disability groups to take up gainful employment without the risk of losing their disability benefits. Previously, disabled individuals from those groups lost their benefits once they began to work.

Religious Minorities

Current law places Protestant, Catholic, Orthodox, and Jewish religions on the same legal footing.

The Sejm on February 20 passed a law on Jewish communal property restitution to allow the local

Jewish community to submit claims for property owned prior to World War II. Possible communal property claims include synagogues, cemeteries, and Jewish community headquarters, as well as buildings that were used for other religious, educational, or charitable activities. However, the law does not address the private property of any group or Jewish communal properties to which third parties now have title, leaving several controversial and complicated issues unresolved.

In February an arsonist set fire to the vestibule of the Nozyk synagogue in Warsaw by throwing an incendiary device through the window over the former main entrance. Both the vestibule and the door leading to the synagogue's main hall were gutted. One person who had been sleeping in a nearby apartment was treated for smoke inhalation, but there were no other injuries. Officials quickly condemned the attack as "an act of barbarism." In a statement issued that day, President Aleksander Kwasniewski emphasized that "the Polish people and state authorities condemn all acts of racism, anti-Semitism, and xenophobia." A memorial service held in the Warsaw synagogue that evening was well attended by individuals of several faiths. No arrests have been made.

In March vandals broke some windows at a Jewish cultural center in Zary, and in May vandals defaced a memorial at a Jewish cemetery in Staszow with swastikas and the German phrase "Juden Raus" (Jews out). The memorial had been unveiled just a week earlier. Although the police were initially unable to identify the perpetrators, increased international pressure ultimately led to the arrest of two youths who are members of "The Historical Society," a local skinhead group. The press early in the year reported tombstone defacings in the Jewish cemeteries of Legnica and Proszowice, as well as similar defacings in three Catholic cemeteries and one Catholic church during the same time period.

In January the Gdansk prosecutor reinstated charges against controversial priest Henryk Jankowski for an allegedly anti-Semitic sermon that he gave in June 1995. The charges had previously been dropped twice. Responding to the latest indictment, Jankowski commented that the Jewish minority was ruling the country and complained that he should have the right to express himself freely. "I have nothing against Jews," he said, "but when it comes to those who are involved in this, one should not tolerate such a situation." Under an arrangement with the prosecutor, Jankowski was sentenced to 2 years' probation and fined approximately \$300 (1,000 PLN) in connection with these charges in March.

In November Father Jankowski made headlines again when Gdansk Archbishop Tadeusz Gocłowski suspended him from his position as pastor of St. Brigitte's church for 1 year as punishment for using his pulpit to make political remarks. The suspension followed directly a sermon Jankowski delivered during which he warned against the presence of Jews in the Government. Jankowski was allowed, however, to live in his parish house and to serve as assistant chaplain. In separate interviews given shortly after his suspension, both Gocłowski and Cardinal Jozef Glemp emphasized that Jankowski was punished for expressing political views that should not be expressed in church, while denying charges that Jankowski was an anti-Semite.

Approximately a week after Jankowski's October sermon, a 14-year-old Jewish boy was beaten up and kicked into the street in Gdansk by a 17-year-old skinhead. The assault was widely believed to be motivated by anti-Semitism. While the attacker was released after questioning, indictments in the case are expected in 1998. The prosecutor's investigation is pending. The victim's father, a Gdansk rabbi, is convinced that Jankowski contributed to the attack through his sermon.

National/Racial/Ethnic Minorities

The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. Poland's bilateral treaties with Germany and Belarus contain provisions relating to the

rights of those national minorities, and human rights groups have described these provisions as "close to ideal." A program was initiated during the 1996-97 school year to teach Lithuanian to pupils of Lithuanian descent in 12 schools in northeastern Poland. Some 4,000 students began learning Belarusian in the Bialystok region in 1996.

In 1996 a Greek Catholic cupola was torn down in Przemysl, reportedly for safety reasons but without the consent of the city's Ukrainian Greek Catholic minority. The event fueled ongoing tension between the Roman Catholic majority and the Ukrainian minority there. In June Ukrainian community leaders in Przemysl complained that authorities there unnecessarily delayed permission to use a city stadium for a Ukrainian cultural festival. The city eventually granted permission 10 days before the event, and the festival took place without incident.

The Romani community, numbering around 40,000, faced disproportionately high unemployment and was harder hit by economic changes and restructuring than were ethnic Poles, according to its leaders. The national Government does not overtly discriminate against Roma; however, some local officials have been known to discriminate by not p