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1999 Country Reports on Human Rights Practices

Released by the Bureau of Democracy, Human Rights, and Labor
U.S. Department of State, February 25, 2000

POLAND

Poland is a parliamentary democracy based on a multiparty political system and free and fair elections. Executive power is shared by the Prime Minister, the Council of Ministers, and, to a lesser extent, the President. The Parliament is bicameral (Senate and Sejm). The Government, elected in October 1997, is a two-party coalition composed of center-right Solidarity Electoral Action (AWS)--itself a broad coalition anchored by the Solidarity labor union--and its junior partner, the centrist Freedom Union (UW), also with origins in Solidarity. The judiciary is independent but inefficient.

The internal security forces and the armed forces are subject to effective civilian control by the Government. Since 1996 the civilian Minister of Defense has had clear command and control authority over the military chief of the general staff as well as oversight of military intelligence. This element of civilian control was reinforced further by a recent restructuring of the Ministry of Defense and general staff undertaken as part of the country's entry into NATO. Civilian participation in the Ministry of Defense has been broadened by a competitive hiring process that mandates civilian control of selected positions.

The country has made a successful transition to a free market economy. Gross domestic product (GDP) growth slowed to less than 4 percent during the year. This was in part due to slow growth in the country's export markets, Europe and Russia. Inflation has been reduced steadily, from double-digits in 1997 to 8.6 percent in 1998 and about 9.8 percent in 1999. Unemployment at the end of 1998 was in single digits for the first time since the transition from communism began but increased again to about 13 percent in 1999. Since 1989 most small and medium-sized state-owned enterprises have been privatized, and the current Government has launched privatizations of major state-owned enterprises such as the insurance, telephone, airline, power generation, petroleum refining, steel, coal, and banks. Significant reforms are underway in other sectors as well, including pensions, health, decentralization of government, and education. Still to be addressed are the agriculture sector, a major part of the economy (employing more than 25 percent of the

labor force), and lagging development in rural areas.

The Government generally respects the human rights of its citizens; however, problems remain in some areas. Prison conditions are generally poor. A cumbersome legal process, poor administration, and an inadequate budget hamper the court system. Court decisions frequently are not implemented, particularly those of the administrative courts, and simple civil cases can take as long as 2 or 3 years. As a result, public confidence in the judicial system is lacking. Many poorly paid prosecutors and judges have left public service for more lucrative employment. The threat of organized crime has provoked legislative responses that raise questions regarding the right to privacy. The Government maintains a large number of wiretaps without outside review.

There are some marginal restrictions in law and in practice on freedom of speech and of the press. With few exceptions, the new Criminal Code provides protection for journalists' sources. Spousal abuse continues to affect many women. Women continue to experience serious discrimination in the labor market and are subject to various legal inequities as a consequence of paternalistic laws. Child prostitution is a problem. There were incidents of desecrations of graves in Jewish cemeteries, and anti-Semitic graffiti was sprayed on a Jewish community center. There is some societal discrimination and violence against ethnic minorities. The Government has worked constructively toward resolving issues of concern to the Jewish community. Although the right to organize unions and bargain collectively largely was observed, some employers violated worker rights provided for by law, particularly in the growing private sector. Trafficking in women and children in, to, and from the country is a problem.

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 killings.

In January 1998 a police officer was charged with the beating death of 13-year-old Przemek Czaja following a basketball game in the Baltic Coast city of Slupsk. The boy's death, caused when local police charged a group of sports fans, touched off 4 nights of riots and caused scores of additional injuries. The officer was sentenced in May to 6 years in prison. Appeals have been filed in the case.

A police officer indicted in connection with the shooting deaths of two unarmed civilians and the wounding of another in Brodno, a suburb of Warsaw, continues to await trial. The officer was suspended from the police force and was charged with excessive use of force. The trial was scheduled to begin in October.

In April 1998, a provincial court in Lublin sentenced the former Lomazy police chief to 15 years in prison in connection with the 1997 shooting death of a 19-year-old man who was held for police questioning. This ruling subsequently was overturned in the appeals court, and a new trial began in September in the local district court.

Trials related to extrajudicial killings during the Communist period continued during the

year. A new trial began in a Katowice appeals court in October in the case of 22 riot policemen accused of killing miners during the Communist martial law era after a 1998 appeals court decision annulled their acquittals. On September 28, the decision of a district court was upheld in the case of the appeal of two officers convicted in 1997 of the 1983 Communist era beating death of Grzegorz Przemyski. One officer was sentenced to 2 years in prison for participating in the beating, and the other officer was found not guilty of attempting to destroy the file in the case. In November the Supreme Court ordered a new trial for former Communist leader Wojciech Jaruzelski and nine other officials who allegedly ordered police to shoot workers during the 1970 riots in Gdansk. The Court ruled that the trial that began in the Gdansk provincial court should be started over in the Warsaw district court. No new trial date was set. On December 9, lawyers representing miners submitted a motion requesting the retrial of former Communist Interior Minister Czeslaw Kiszczak for his role in the pacification of the Wujek mine, but a Katowice district court did not rule on the motion by year's end.

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; however, on several occasions during the year police used force to disperse protesters who became violent or to break up illegal roadblocks (see Section 2.b.).

In June 1998, a Gdansk court indicted 11 riot policemen for their participation in the October 1997 beating of soccer fans attending a match in the town of Gdynia. 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. A civil case against the officers, launched by the father of one of the teenage victims, also is pending. Both civil and criminal cases stemming from the incident were pending at year's end.

There was no progress during the year on the appeal filed after an Olsztyn court granted the appeal of two Szczytno police officers in December 1998 who had been found guilty of beating two men detained in September 1996.

In the case of three police officers in Bytom who were arrested and charged with the rape of seven underage detainees in 1994, one officer was sentenced to 4 years and 6 months in prison, while the other two received 3-year sentences.

Prison conditions are still generally poor, according to reports by nongovernmental organizations (NGO's). Many facilities are old, in disrepair, and overcrowded. According to a July 1998 report by the National Penitentiary Authority, the prison system is in urgent need of additional funding. Of 156 detention facilities, 100 require considerable renovation. At the same time, the National Penitentiary Authority's annual budget continued to fall; it has declined by approximately 34 percent since 1991. The Ombudsman for Human Rights complained about the safety of prisoners, noting that inmates are often the victims of violent attacks by other prisoners. Civil litigation against the prison administration in the 1996 case of an 18-year-old mentally retarded boy who was beaten and sodomized by fellow inmates is to be considered by the Bydgoszcz district

court in February 2000. The Ombudsman also has suggested that the prison population be reduced, including by decriminalizing certain offenses, pointing out that the ratio of prisoners to rehabilitation officers is very poor.

The Government permits human rights monitors to visit 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 and an additional 24 hours for the court to decide whether to issue a pretrial detention order. During this period, access to a lawyer normally is limited. Once a prosecutor presents the legal basis for a formal investigation, the law provides for access to counsel. Detainees may be held in pretrial detention 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 for up to 18 months until the trial date. Bail is available, and most detainees are released on bail pending trial.

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. However, the judiciary remains inefficient and lacks resources and public confidence.

The Government is restructuring the court system in order to streamline and accelerate the legal process. At present there is a four-tiered court and prosecutorial structure. The courts consist of regional, provincial, and appellate divisions, as well as a Supreme Court. These tiers are subdivided further into five parts: Military, civil, criminal, labor, and family. Regional courts are courts of first instance, while appellate courts are charged solely with appeals. Provincial courts have a dual responsibility, handling appeals from regional courts while enjoying original jurisdiction for the most serious types of offenses. Appellate courts handle appeals tried at the provincial level, and the Supreme Court handles appeals only about questions of law. The prosecutorial system mirrors the court structure with national, provincial, appellate, and regional offices.

Judges are nominated by the National Judicial Council and appointed by the President. They 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. In October Constitutional Tribunal decisions became final and binding, after a 2-year interim period following the entry into force of the new Constitution during which a two-thirds majority in the Sejm could overrule its decisions.

The court system is cumbersome, poorly administered, overstaffed, and underfunded. There are numerous inefficiencies, most notably the fact that many districts have more criminal judges than prosecutors. These factors contribute to a lack of public confidence. Many effective judges and prosecutors have left public service for the more lucrative private sector. Court decisions frequently are not implemented. Bailiffs normally ensure

the execution of civil verdicts such as damage payments and evictions. However, according to some observers, 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. The backlog and the costs of legal action appear 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.

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, 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. However, the courts 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.

The new Criminal Code and Code of Criminal Procedure went into effect in September 1998. However, a March 1998 ruling by the European Court of Human Rights already may necessitate changes. The Court unanimously ruled that a provincial appellate court's examination of the verdict in the presence of the prosecutor, but not the defendant or his representative, infringed on the European Convention on Human Rights provisions concerning fair trial.

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; however, the Government maintains, without outside review, a large number of wiretaps. There is no legislation that provides for the general right to privacy. However, a 1998 law prohibits the collection of information about a person's ethnic origin, religious convictions, health condition, political views, or membership in religious, political, or trade union organizations. The law allows for certain exceptions, specifically, the gathering of information without a person's permission by courts, hospitals, or organizations if the

information pertains to their members. All exceptions are subject to some restrictions. A few continuing practices (such as a requirement to fill out "creed" or "nationality" items in some questionnaires) became illegal, effective April 30. Violators of these provisions are subject to imprisonment for up to 3 years.

In response to the growing threat of organized crime and money laundering, Parliament permitted the police and intelligence services to monitor private correspondence and to use wiretaps and electronic monitoring devices in cases involving serious crimes, narcotics, money laundering, or illegal arms sales. Under the Criminal Code, 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. Estimates on the number of wiretapping devices installed annually at the request of the police vary widely; however, a high-ranking public prosecutor in 1998 put the number at 4,000. After interventions by the human rights Ombudsman, the Prosecutor General curtailed the number of warrants for wiretapping. Levels are now reportedly back at pre-1998 levels, over 4,000.

Parliamentarians and human rights groups 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 the Police Code allows electronic surveillance to be used for the prevention of crime as well as for investigative purposes. As is the case under the Criminal Code, police must obtain permission from the Ministers of Justice and Interior before initiating wiretap procedures.

In September 1997, the special Sejm Committee on Security Services announced that the Office of State Protection (UOP) "may have" acted illegally against rightwing politicians in 1993, allegedly carrying out activities such as the forging of documents in order to discredit rightwing parliamentary candidates. After further investigation, the Warsaw prosecutor's office announced in August that it was discontinuing the investigation, having concluded that the UOP had not violated the law. In October one of the alleged victims in the case announced that he would appeal the discontinuation of the case.

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.

A law on "lustration" or vetting went into effect in November 1998. The law is designed to expose former government officials and parliamentarians who collaborated with the Communist-era secret police, and it bans from office for 10 years those caught lying about their past. The law requires officials to provide sworn affidavits concerning their possible cooperation with the secret police; a public interest spokesman then verifies the affidavits and brings suspected cases of misrepresentation before the lustration court, a special three-judge panel created during the year whose decisions may be appealed. The law was judged constitutional by the Constitutional Tribunal, but human rights groups and some

opposition politicians have expressed concern that the procedures may be unfair, in view of the likelihood that records were subject to loss or tampering. Critics of the law have charged that lustration has created a "witch-hunt" atmosphere in which leaks of the names of potential investigative targets and protracted investigations have destroyed the principle of the presumption of innocence and violated the "moral rights" of the accused.

In June 1998, the Constitutional Tribunal ruled unconstitutional a 1997 draft law envisioning 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 were to be initiated by the Minister of Justice, the presidents of the appellate or regional courts, the National Judiciary Council, or individuals who felt wronged by court verdicts. In December 1998, the Sejm addressed the issue that concerned the Constitutional Tribunal and adopted amendments to the law requiring that procedures against accused judges be initiated before December 31, 2002. The law went into effect in January.

Men are not permitted to marry without parental permission 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 respects this right; however, there are some marginal restrictions in law and practice. Nonetheless, the press is vigorous and independent.

The new Criminal Code states that an individual who "publicly insults or humiliates a constitutional institution of the Republic of Poland" is subject to a fine or imprisonment of up to 2 years, while an individual who insults a public functionary is subject to a fine or imprisonment of up to 1 year. In December the trial began in Elblag in the case of Andrzej Lepper, who was accused of insulting Prime Minister Jerzy Buzek and state officials in January. Prosecutors charge that during a road blockade in Nowy Dwor Gdanski, Lepper called Buzek's cabinet a "government of national betrayal, a government of dilettantes, traitors to Poland." He is said to have called the Prime Minister and another political leader "bandits and criminals." President Aleksander Kwasniewski's case against Zycie for accusing him of contacts with Russian spies was ongoing at year's end. This provision of the Criminal Code also can be used by individual citizens and businesses "to protect their good name." In March 1998, Network Twenty One, which sells Amway products, and seven of its employees used the provision to prevent the broadcast, showing, or copying of a 1-hour documentary critical of the company and its practices. When Public Television Channel One announced plans to broadcast the film, Network Twenty One took the matter to court and won a temporary restraining order. Many leading journalists and media figures criticized the court's decision as a form of censorship. Since that time, the controversy has led to several different cases. Although a regional court in Lodz acquitted the filmmakers of Network Twenty One's charges, several complicating factors are still at issue in ongoing litigation and appeals. The documentary will not be broadcast until all current litigation on the matter is concluded.

In Szczecin the Bryza housing company brought suit against the weekly Nowy Kurier,

due to a series of articles involving the firm's business practices. Bryza charged the newspaper with defaming its "good name" and asked the court to prohibit the newspaper from printing critical articles on the company or gathering any information on it. A Szczecin district court ruled in favor of the plaintiffs on both of these points in July. Several other cases decided during the year follow the precedent set in the Bryza case.

The case against talk show host Wojciech Cejrowski, charged with publicly insulting President Kwasniewski, was postponed several times before being decided against the defendant April 1998. It since has been appealed and still was pending decision at year's end. Also pending was a 1995 case against presidential candidate Leszek Bubel for violating a section of the Penal Code that prohibits acts that "publicly insult, ridicule, and deride the Polish nation, the Polish Republic, its political system, or its principal organs." Bubel had claimed publicly that a former head of the presidential Chancellery protected a group of criminals.

In January the European Court of Human Rights ruled in the case in which a Polish court had convicted a journalist of verbally insulting two municipal guards in 1992. The Court ruled that the verdict in the case did not constitute a breach of Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

There was no progress during the year in the ongoing investigation into the case of Mikolaj Siwicki for publishing an allegedly hate-mongering book that could damage the nation's interests.

The new Criminal Code also stipulates that offending religious sentiment through public speech is punishable by a fine or a 3-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 still is pending. In July the Warsaw district court revoked the 1998 decision of prosecutors not to start proceedings against the leftist newspaper Trybuna for insulting Pope John Paul II in one of its articles. In 1997 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, originally filed charges against Trybuna for its alleged insults of the Pope. Rydzyk and Giertych were offended particularly 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. In April 1998, the Warsaw prosecutor's office decided to drop the case. Subsequently some 1,500 persons appealed to the Warsaw district court to reopen the case.

The State Secrets Act allows for the prosecution of citizens who publish or otherwise betray state secrets. Human rights groups criticize this law, since it restricts the right of free speech of private citizens.

The new Criminal Code regulates the protection of journalistic sources. The 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 also can avoid sanctions by invoking "journalistic privilege."

There is no restriction on the establishment of private newspapers or distribution of

journals; private newspapers and magazines flourish. There was no progress in the ongoing privatization of RUCH, a national network of newspaper kiosks.

The National Radio and Television Broadcasting Council (KRRiTV) has broad powers in monitoring and regulating programming on radio and television, allocating broadcasting frequencies and licenses, and apportioning subscription revenues to public media. In order to encourage the KRRiTV's apolitical character, the nine KRRiTV members are obliged legally to suspend any membership in political parties or public associations. However, they are chosen for their political allegiances and nominated by the Sejm, the Senate, and the President following political bargaining, thus raising potentially serious questions about the independence of broadcasting oversight from political influence. In the fall, the program director of the Television Information Agency resigned and charged that he was put under political pressure by the Polish Peasant Party (PSL). He claimed that supporters of the PSL on his staff were giving disproportionate coverage to the party's activities.

The broadcasting law stipulates that programs should not promote activities that are illegal or against state policy, morality, or the common good. The law, whose constitutionality has been confirmed by the Constitutional Tribunal, requires that all broadcasts "respect the religious feelings of the audiences and in particular respect the Christian system of values." This provision never has been used as a means of censorship, although the restrictions theoretically could be used as such.

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, while additional licenses were granted to TVN and Nasza Telewizja in 1997. Private radio flourishes on the local, regional, and national levels alongside public radio.

The Government owns 2 of the 3 most widely viewed television channels and 17 regional stations, as well as 5 national radio networks. PAP, the national wire service, was privatized partially in December 1997, and a five-member supervisory board is preparing the service for full privatization. Although public television remains the major 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 institutions, including the presidency, "to make presentations or explanations of public policy." The President and the Prime Minister have complained occasionally of the other's abuse of the access privilege. Both public and private radio and television provide coverage of all ranges of political opinion.

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

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government 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 also are required to inform the local police of the time and place of their activities and their planned route. Every gathering must have a chairperson who is required to open the demonstration, preside over it, and close it.

In several instances there were clashes between police and demonstrators during the year. Some of these involved roadblocks set up by farmers to protest the Government's agricultural policies. In some cases when police moved in to disperse the roadblocks, conflict ensued. For example, in August between 50 and 123 policemen and between 5 and 20 civilians were injured in the town of Bartoszyce when police forcibly removed an illegal roadblock set up by protesting farmers. Two of the most controversial confrontations between police and demonstrators occurred during the summer, when in June 50 policemen and 4 trade unionists were injured in clashes in front of the National Defense Ministry building and when in August police used rubber bullets to disperse farmers who were occupying the provincial administrative office building in Olsztyn (see Section 1.c.).

Beginning on January 22, as many as 8,000 farmers raised roadblocks at more than 100 locations around the country to protest the Government's failure to improve the country's agricultural sector. On January 25, violent clashes occurred in Lubliniec, where police used water cannons and tear gas to break up the roadblock but retreated after the farmers shot streams of liquid manure at the officers. In Nowy Dwor Gdanski there were injuries among both police officers and protesting farmers after the police used water cannons to disperse the farmers, and the farmers responded with gasoline bombs. On February 8, after 2 weeks of disruptive farmers' protests, the Government and three agricultural unions reached a preliminary agreement on government steps to address short-term problems in the agricultural sector. However, the small radical farmers' union, Samoobrona, rejected the agreement and called for farmers to continue blocking roads. On February 8 and 9, police officers cleared the fewer than 10 remaining roadblocks. At one roadblock outside of Warsaw, police reportedly used rubber bullets, tear gas, and a water cannon to disperse protesters, injuring two police officers and one farmer.

In May farmers again set up roadblocks at some 90 locations throughout the country to protest agricultural policies. Police officers used force in eight locations to clear the protesters from the roads. Violent clashes occurred in Nowy Dwor Gdanski, where several protesters and police officers were hospitalized. The protests ended after the Government signed an agreement with the farmers on minimum state prices for grain.

In June about 50 policemen, 4 trade unionists from the Lucznik arms factory in Radom, and 1 photographer were injured in clashes in front of the National Defense Ministry building. Some 500 police officers used water cannons and rubber bullets to pacify about 800 demonstrating workers when they started to remove barriers guarding the entrance to the building and began to throw paving stones, heavy screws, and eggs at police. The *Nasz Dziennik* photographer was hit in the eye with a rubber bullet and as result had to have the eye removed. An investigative commission set up by the Ministry of the Interior later ruled that the force used by police was justified and in accordance with the law. The commission's report found that 4 police officers fired a total of 42 shots with rubber bullets, and it advised that regulations governing the use of rubber bullets be made more

precise. There are no provisions that regulate the distance from which police may fire rubber bullets at persons.

In August approximately 400 farmers occupied the provincial administrative office building in Olsztyn. The farmers, who were armed with wooden boards and chains, barricaded the front door of the building, while the regional governor locked himself in his office. The farmers became violent, and conflict erupted when police moved in to remove them by force. Some 13 police officers and 6 farmers were injured during the clash. In initial statements and press reports police insisted that they had used only batons to disperse the protesters, but later the fact emerged that they had fired rubber bullets as well.

On August 19, police used batons, tear gas, a water cannon, and rubber bullets to break up an illegal roadblock by farmers in Bartoszyce. The farmers, who were protesting against the Government's agricultural policies, refused to cooperate with police and became violent when police attempted to disperse them. Police were hit by paving stones thrown from the crowd of bystanders as the officers used batons, a water cannon, and tear gas to disperse the rioting farmers. Police finally used rubber bullets to restore peace. Some 83 police officers and a dozen civilians were injured during the clash. Prosecutors opened an investigation into the incident.

In July 1998, a parade to be held as part of the first gay pride festival was called off after Warsaw municipal authorities denied approval, arguing that it was not a cultural event. Gay rights activists view the denial as discrimination.

The law provides for freedom of association, and the Government generally respects this right in practice. Private associations need government approval to organize and must register with their district court. The procedure essentially requires the organization to sign a declaration that commits it to abide by the law. However, in practice the procedure 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 14 religious groups in the country whose relationship with the State is governed by specific legislation and 140 other religious communities. The legislation outlines the internal structure of the religious groups, their activities, and procedures for property restitution. 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, a crucifix hangs in both the upper and lower houses of Parliament. State-run radio broadcasts Catholic Mass on Sundays, and 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.

Religious communities may register with the Government, but they are not required to do so and may function freely without registration.

Although the 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. Catholic Church representatives are employed to teach religious classes in the schools. Such classes constitute the vast majority of all religious education classes offered, since the population of the country is approximately 95 percent Catholic. However, 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, although it is not common, and the Ministry of Education pays the instructors. Priests receive salaries from the state budget for teaching religion in public schools.

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 the country have no trouble returning. There are no restrictions on emigration.

The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. There were no reports of the forced repatriation of persons with a valid claim to refugee status. Foreigners recognized as refugees under the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol are granted full refugee status and permission to remain permanently. According to UNHCR figures, 2,864 individuals applied for refugee status during the year. Of the total number of applications awaiting decision (including applications carried over from 1998), 46 were approved, 2,404 were rejected, and 762 were otherwise discontinued.

A law on immigration signed by the President in 1997 took effect in December of that year. Human rights organizations generally view the Aliens Act as positive. The law gives all prospective refugees access to a procedure for adjudicating refugee status and establishes an independent board to which prospective refugees can appeal negative status decisions by the Ministry of Internal Affairs. This board has been fully operational since January, and refugee advocates noted that it serves as an impartial and independent adjudicator of appeals. The law does not recognize the concept of first asylum or any other form of temporary protection.

A 1998 Helsinki Foundation Report, drafted after extensive monitoring of eight of the country's major border crossings, provided a generally favorable assessment of the country's treatment of refugees. While critical of the general unavailability of interpreters and informational leaflets printed in different languages, the report points out that border officials were acquainted with the contents of the aliens law, particularly those provisions relating to the application for refugee status, and were well prepared for their duties. During the year, the Government cooperated with the UNHCR and the Polish NGO Caritas in a new program monitoring portions of the country's eastern and western borders from offices in Bialystok and Zgorzelec. The UNHCR reports that the Government has been cooperative as the offices monitor relevant issues such as tracking asylum seekers.

Although some observers had criticized the authorities for using deportation centers in place of refugee centers (when the latter are full), as well as for long delays in the initial review of refugee status applications, the Government no longer uses deportation centers as refugee centers, and the UNHCR received no complaints about the Government's handling of refugee processing.

In April 1998, responsibility for the administration of the program that helps refugees integrate into society was transferred from the Office for Migration and Refugee Affairs at the Ministry of Internal Affairs to the Department of Social Assistance at the Ministry of Labor. The Ministry of Labor, in turn, passed responsibility for the program's implementation to authorities at the local level but initially failed to provide local officials with the information or personnel resources necessary to carry out the task effectively. Advocates for refugees complained that as a result of the transfer, the program ground to a halt in 1998 and left many recently recognized refugees without even the basic necessities of daily life. The Government cooperated with the UNHCR in the latter half of 1998 and in 1999 to become better informed about possible solutions to the situation, by taking part in visitors' programs in which government officials traveled to Western countries to study different integration techniques. The results are inconclusive thus far.

The UNHCR expressed concern during the year over the fate of unaccompanied children seeking asylum in the country. It urged that procedures and practices concerning the appointment and maintenance of supervisors and guardians for minors be improved.

In June 1998, the Warsaw High Administrative Court ruled in favor of a petitioner who was denied refugee status in January of the same year. The Ministry of Internal Affairs had refused the petitioner's application on the grounds that it had not been submitted "upon" crossing the border (as required under Article 37 of the Aliens Act), but 2 days later. The High Court declared this original ruling invalid, noting that the article fails to define a specific time period and that neither the Aliens Act nor the administrative code concerning the documentation of aliens addresses the legal consequences of failing to submit a refugee status application at the border. This ruling turned out to be less far-reaching than advocates for refugees had hoped, and the Ministry of Internal Affairs refused some subsequent cases on the same grounds in 1998 and 1999. However, in September the Court issued an oral decision that observers believe may compel the Ministry to accept a broader definition of the time limits involved in the application process.

The UNHCR noted that the Government handled the Kosovo refugee crisis very effectively. It accepted 1,048 refugees, paid for their support, and housed them primarily in former dormitories and hostels. Although refugee advocates noted a slow start by the Government in mobilizing supplies, it rapidly increased aid and coordinated necessary equipment. Although there is no humanitarian status law that allows refugees to remain in the country in temporary protective status, the UNHCR noted the Government's flexibility in finding alternative visa solutions. Refugees were given 1-year temporary-resident visas entitling them to work legally while in the country.

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 of age and older have the right to vote and to cast secret ballots. A permanent, democratic constitution entered into force in 1997.

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, in certain very limited cases and after seeking the opinion of the Speakers of the Sejm and the Senate, to shorten the Sejm's term of office. Whenever the Sejm's term of office is shortened, the Senate's term automatically is shortened as well. Parliament may impeach the President.

Women are underrepresented in government and politics. Only 13 percent of parliamentarians are women, while 2 of the 23 cabinet ministers are women. The Speaker of the Senate is the only female parliamentary leader, and none of the leaders of the nation's largest political parties are women.

Two members of the German minority party are Members of Parliament. 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.

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 generally are cooperative and responsive to their views.

The Helsinki Foundation, a major NGO, conducts human rights investigations without government interference. Members of the Foundation report that the Government displays a generally positive and helpful attitude towards human rights investigations. However, some domestic NGO's 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 effective, 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. The Government cooperates with his office.

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

The Constitution states that "no one shall be discriminated against in political, social, or economic life for any reason whatsoever." The Government attempts to ensure that these provisions are observed; however, violence and societal discrimination against women and ethnic minorities persist.

Women

Violence against women continues to be a problem. Women's rights advocates report that unofficial statistics are similar to those of previous years, though there are no recent comprehensive surveys. In 1996 some 9 percent of women polled by the Public Opinion Research Center admitted to being beaten repeatedly by their husbands. Women's organizations assert that the number of women suffering from domestic abuse is probably much higher. They explain that battered women usually refuse to admit abuse even to themselves. Violence against women remains hidden, surrounded by taboos and accompanied by shame and guilt, particularly in small towns and villages. Government and police statistics do not differentiate between male and female victims of violence. Police intervene in cases of domestic violence, and husbands can be convicted for beating their wives. In 1998 the police in cooperation with the State Agency for Solving Alcoholic Problems introduced the so-called "blue card," a record-keeping system designed to better document incidents of spousal abuse. Sentences for abuse of family members range from 3 months to 5 years, or from 2 to 10 years if the victim attempts suicide as a result of the abuse. However, statistics suggest that a large majority of convictions result in suspended sentences. According to NGO's the courts often treat domestic violence as a minor crime, pronounce lenient verdicts, or dismiss cases. A seminar on combating violence against women organized by the Women's Rights Center in March came to a similar conclusion on the topic. Former victims of violence participating in the seminar complained about investigations that dragged on for several months (although this is a common complaint for nearly all types of court cases), as well as about procedures that were intimidating, unfamiliar, and unfriendly. According to the latest Women's Rights Center report, there has been significant progress in awareness of the issue of violence against women. It has become more visible in the media, and an increasing number of NGO's are addressing the problem. The U.N. Development Program currently is developing a program in cooperation with the Government's Plenipotentiary for Family Affairs to prevent family violence by opening centers to assist families with violence problems and training people working with victims of family violence. However, the Women's Rights Center criticized the program and argued that it will fail to empower women who are victims of domestic violence.

The law has no provision for restraining orders to protect battered women against further abuse. For example, in divorce cases courts frequently grant a divorce but do not issue a property settlement, sending the woman back to live with the abusive husband. This problem is exacerbated by a lack of alternative housing in the country. Women's advocacy groups also have complained about the small number of state-supported shelters for battered women.

According to police statistics, the frequency of rape is decreasing. During the year, there were 2,029 cases reported, compared with 2,174 in 1998 and 2,250 in 1997. NGO's report that women often are unwilling to report the crime, so these figures are likely deceiving. NGO's estimate that the number of actual rapes is ten times higher than reported statistics suggest.

Trafficking in women is a problem (see Section 6.f.).

Public discussion of the problem of sexual harassment is relatively new, but women increasingly are talking about the problem and speaking out against it. According to statistics released by the Public Opinion Research Center in June, 28 percent of women admitted to being harassed. While laws specifically addressing sexual harassment do not

exist, social awareness is increasing, as are mechanisms with the potential to deal with the problem. For example, the new Criminal Code states that persons who take advantage of a position of power in a relationship to gain sexual gratification may be sentenced to up to 3 years in prison. 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. However, this provision can be used only when sexual harassment occurs between a supervisor and an individual in a subordinate position. It may not be used when 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 areas of family, political, social, and economic life, including equal compensation for work of similar value. However, in practice women frequently are paid less for equivalent work, mainly hold lower level positions, are discharged more quickly, and are less likely to be promoted than men. According to the 1998 government statistical bulletin, men have a higher employment rate (59 percent) than women (39 percent), and women have a higher unemployment rate (12 percent) than men (9 percent). Despite a generally higher level of education, women earn on average 30 percent less than men. In August the U.N. Human Rights Commission expressed its concern about the situation and agreed that women are discriminated against in the labor market.

Women are employed in a wide variety of professions and occupations, and a number of women occupy high positions in government and in the private sector. Although clauses in social insurance law had limited child sick care benefits only to women, since June, both men and women have the right to child sick care. The new pension law passed in late 1998 did not change the mandatory earlier retirement for women at age 60 (65 for men). As a result women get about 60 percent of the average pension that men receive. 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 still are prevented from working underground or in jobs that require heavy lifting. In March the Parliament failed to approve the proposed law on equal status that would have remedied some of these inequalities. Apart from the Constitution there is no other legal provision for equal rights for women.

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, in 1997 the government Plenipotentiary for Family Affairs replaced the government Plenipotentiary for Women and the Family, a change that many women's rights groups perceived as an example of discrimination. There are several women's rights NGO's. 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 publishing. There are several church-sponsored women's advocacy organizations, but their cooperation with other women's NGO's is limited.

As of January 1, women have the same right as men to transmit citizenship to their foreign-born spouses.

Children

The Constitution extends some state protection to the family and children and provides for the appointment of an ombudsman for children's rights. However, an ombudsman had not been appointed, since Parliament passed legislation that was awaiting the President's signature at year's end. Education is mandatory until age 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 in the schools. However, in reality budget shortfalls prevent complete implementation of these programs. 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.

There were reports in 1998 that prostitution among 12- and 13-year-olds was increasing. Violence against children is illegal. A provision of the new Criminal Code threatens those who physically or psychologically abuse a juvenile with a prison sentence of 3 months to 5 years. If the victim attempts suicide the sentence is increased, as it is if the perpetrator is found to have acted with extreme cruelty. Abuse rarely is reported, and convictions for child abuse are even more rare. There is no societal pattern of abuse of children; however, trafficking in children is a problem (see Section 6.f.).

Young men and women are treated unequally in terms of the age of majority. Men and women 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 were approximately 5 million disabled persons in 1996, 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. GUS data from 1997 indicate that 57 percent of the disabled have no more than an elementary school 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 the disabled. However, implementation falls short of rights set forth in the legislation. Public buildings and transportation generally are not accessible to the disabled. Current law provides only that buildings "should be accessible."

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 encountered 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 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 communities on the same legal footing, and the Government attempted to address the problems that minority religious groups face. Among the most important of these problems is the issue of restitution. These laws allow for the return of churches and synagogues, cemeteries, and community headquarters, as well as buildings that were used for other religious, educational, or charitable activities. The laws included time limits for filing claims; in several cases the deadlines have expired, and no additional claims may be filed. However, restitution commissions (composed of representatives of the government and the religious community) are continuing to adjudicate previously filed claims. The Government established four separate commissions to process the claims of the Catholic, Lutheran, and Orthodox Churches, and the Jewish community. A fifth commission to handle the claims of other religious groups was not yet active at year's end.

The time limit for applications by the Catholic Church expired in December 1991. As of the summer, 2,285 of the 3,038 claims filed by the Church had been concluded, with 1,028 claims settled by agreement between the Church and the party in possession of the property (usually the national or a local government), 834 properties were returned through decision of the Commission on Property Restitution, which rules on disputed claims, 412 claims were rejected, and 11 cases were likely to go to court. Claims by the local Jewish community (whose deadline for filing claims under the 1997 law governing relations with the Government expires in 2002) are being filed slowly. Only some 418 claims had been filed by the end of November, mainly because the country's Jewish community lacks the information and financial resources to prepare claims more quickly. Of the 379 claims for which procedures had begun, the commission on property restitution considered 264; 78 cases were closed; and in 55 cases, ownership was transferred to Jewish communities, who also have received some \$650,000 (2.5 million PLN) in compensation for properties that could not be returned. In other cases the commission directed the parties to reach a settlement or submit new documentation. As of early 1999, Lutheran claims for 1,200 properties had resulted in 288 cases being closed with the return of the properties in question (the deadline for filing such claims was July 1996). Some 75 of the 189 properties claimed by the Orthodox Church have been returned (the deadline for filing such claims was August 1993).

However, laws on religious property do not address the private property of any group. In September the Government's council of Ministers approved a draft reprivatization law. The original draft, which would permit former Polish citizens no longer living in the country to file claims for property they or their families owned, was amended by a Sejm committee in December to require claimants to possess current Polish citizenship and to have resided in the country for the past 5 years. These changes effectively would make it impossible to address the claims of many Poles and Jews living abroad. The Government remains opposed to the committee's changes and is to seek approval of the bill's original version when the issue is considered by the full Sejm.

Anti-Semitic feelings persist among certain sectors of the population, occasionally manifesting themselves in acts of vandalism and physical or verbal abuse. However, it is not always clear that vandalism of graves is anti-Semitic in nature. Police note that every year there are numerous incidents of vandalism at Catholic cemeteries. For example, in March vandals desecrated graves at a Catholic cemetery in Bytom, in some cases uprooting stone cross gravestones and transplanting them upside down. Moreover, surveys in recent years show a continuing decline in anti-Semitic sentiment, and avowedly anti-Semitic candidates fare very poorly in elections.

In March 1998, a controversy arose over the "Pope's Cross," located on the grounds of a former Carmelite convent in Oswiecim adjacent to the Auschwitz concentration camp museum. The cross originally adorned the altar at a mass conducted by Pope John Paul II near Birkenau in 1979 and was erected at the site of the Carmelite mission in 1989. After the Plenipotentiary for Relations with the Jewish Diaspora announced in 1998 that the cross would be removed, as disrespectful of the Jewish legacy at Auschwitz, a large group of government and nongovernment leaders went on record as opposing the removal of the cross. Two radical rightwing groups also emerged that opposed the plan. Throughout 1998 and the first half of 1999, radical nationalist anti-Semites erected dozens of additional crosses outside Auschwitz, despite the opposition of the country's bishops. In May the Parliament passed a government-sponsored law to protect the sites of all the former camps in the country. The Government consulted with international Jewish groups in preparing the law, which gave the Government the power it needed to resolve the issue of the "new crosses." After the arrest of the self-proclaimed leader of one of the groups for possessing explosives and making public threats in late May, local authorities removed the crosses--except for the "Pope's Cross"--to a nearby Franciscan monastery, under the supervision of the local Bishop. Later they sealed off the site to prevent the erection of additional crosses. On November 8, the Oswiecim district court ruled in favor of the Ministry of Treasury's suit to regain legal possession of the gravel pit adjacent to the former Auschwitz concentration camp, where the new crosses had been erected.

In January vandals damaged or destroyed 57 gravestones in the Jewish cemetery in Krakow. Vandals had attacked the same cemetery in October 1998. After the first incident police officers increased their patrols of the cemetery. Police promised additional, special protection after the second incident to prevent further attacks. In May the cemetery was vandalized again when unidentified perpetrators overturned 30 gravestones and set fire to the main door of the preburial house. However, the chairman of the local Jewish community called this an act of hooliganism, not anti-Semitism, since in the weeks preceding the attack vandals had smashed gravestones and otherwise damaged two nearby Catholic cemeteries. The chairman also noted the cooperation of the Krakow city police with the Jewish community to improve the security of the cemetery. In June the cemetery was attacked yet again when vandals painted crosses on several tombstones and on the preburial house. This incident appears to have been motivated by anti-Semitism, since members of the Jewish community received telephone calls linking the graffiti to the recent removal of crosses that were placed near the concentration camp at Auschwitz.

In July unknown vandals sprayed swastikas and anti-Semitic graffiti on the Jewish community headquarters in Bielsko-Biala. According to the mayor of Bielsko-Biala, city police officers were ordered to guard the building after the attack and an investigation was opened into the case; however, there were no results by year's end. Anti-Semitic graffiti was painted on several monuments in the Tarnow Jewish cemetery in August. In

September vandals attacked several tombs in the Warsaw Jewish cemetery, leaving satanic graffiti and damaging a number of monuments. The vandalism immediately was criticized by the chief of the Prime Minister's Chancery.

Investigations continued in the May 1998 desecration of graves in the Warsaw Jewish cemetery and the July 1998 vandalism of a plaque commemorating Jewish Holocaust victims in Rzeszow. No charges have been filed to date, and the Rzeszow case is still under investigation. In the case of the 1997 beating of a 14-year-old Jewish boy in Gdansk, the defendant received a 4-year suspended sentence. The attack may have been linked to a sermon by controversial Gdansk priest Henryk Jankowski warning against the presence of Jews in the Government.

The publication of a booklet by an Opole University professor Dariusz Ratajczak denying the Holocaust triggered severe public criticism in March and April. The booklet was self-published (a total of 230 copies), and as soon as it became aware of the publication, the University banned its distribution on school property, criticized its contents, and suspended the professor pending further disciplinary action. Ratajczak's trial began on November 16 on charges of violating the law on the preservation of national memory, which took effect on January 1, for disseminating the Auschwitz lie. On December 7, the Opole district court acquitted him and ruled that the "social threat" posed by the book was low, given the low number of copies, and that in the book's second edition and in Ratajczak's public appearances he criticized the revisionist views of historians who deny the Holocaust.

In April during the 11th March of the Living from Auschwitz to Birkenau to honor victims of the Holocaust, several hundred Poles joined about 2,000 marchers from Israel and other countries. This was the largest participation of Polish citizens in the event to date. Government officials participating in the march included approximately 12 Members of Parliament, the province's governor, and Oswiecim's mayor and city council chairman. Polish school children, Boy Scouts, the Polish-Israeli Friendship Society, and the Jewish Students Association in Poland also participated in the march.

There is some public concern about the growth of groups perceived to be "sects" and the influence of nonmainstream religious groups, especially in the wake of press reports of the deaths of a few young persons in circumstances suggesting cult activity.

National/Racial/Ethnic Minorities

The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. However, controversy has arisen over the publishing of Lithuanian textbooks. In February 1998, the Lithuanian Ambassador to Poland, Antanas Valionis, complained to Polish Minister of Education Miroslaw Handke that since 1991, 172 editions of textbooks in Polish had been published in Lithuania while only 4 textbooks in Lithuanian had been published in Poland since 1989. Valionis also noted that during 1997 Lithuania, despite significantly more modest financial resources, published 27 different textbooks for the 20,000 Polish pupils in Lithuania, while Poland published only 3 for Lithuanian pupils in Poland. There are approximately 800 ethnic Lithuanian students in 18 schools of various levels ranging from preschool to high school and vocational school. Some controversy continued during the year, but the two Governments continue to negotiate on issues related to minorities in their respective countries.

The Romani community, numbering around 40,000, faced disproportionately high unemployment and was hit harder by economic changes and restructuring than were ethnic Poles, according to its leaders. The national Government does not discriminate overtly against Roma; however, some local officials have been known to discriminate by not providing services in a timely manner or at all. Some schools have experimented with separate special classes for Romani children, stating that because of economic disadvantage, language barriers, and parental illiteracy, Romani children are behind their non-Romani counterparts when starting school. There have been occasional incidents of skinheads clashing with Roma. In response to what its leaders felt was a threatening atmosphere around them, a Roma community near Tarnow announced in July that it planned to form "self-defense units" within the community. At year's end, nothing had come of the plan.

In the 1998 case of a 14-year-old Romani girl from Bytom who was injured when a skinhead threw a Molotov cocktail into the apartment where she was sleeping, a suspect is awaiting trial.

The small Ukrainian and Belarusian minorities occasionally experience petty harassment and discrimination. Individuals of African, Asian, or Arab descent continue to experience verbal abuse or other types of aggression, including physical abuse. In March a student of South Asian origin studying in Katowice reported that he had been assaulted by three skinheads who called him "czarny" ("black" in Polish) and "nigger" while pushing him around. In June a student of Korean descent was assaulted from behind and knocked unconscious in Krakow in what he considered to be a racially motivated attack.

In December the Government announced plans for television channels nationwide to broadcast a public service announcement propagating friendly attitudes toward refugees and foreigners in the country. A well known Polish actor was featured in the project.

Section 6 Worker Rights

a. The Right of Association

The law provides that all civilian workers, including military employees, police, and frontier guards have the right to establish and join trade unions of their own choosing. The law sets minimum size requirements for establishing a trade union: 10 persons may form a local union, and 30 may establish a national union. Unions, including interbranch national unions and national interbranch federations, must be registered with the courts. A court decision refusing registration may be appealed to an appeals court. In 1999 the number of officially registered national-level unions remained at about 360, about the same as in 1998. No precise data exist on work force unionization, although the trend continues to be downward. Recent studies suggest that only some 13 percent of workers belong to a union. As a rule, newly established small- and medium-sized firms were nonunion, while union activity in most cases carried over into privatized (former state-owned) enterprises. The Independent Selfgoverning Trade Union (NSZZ) Solidarity has a verified regular dues-paying membership of about 1 million. Small spin-offs from mainstream Solidarity include the rival factions Solidarity '80, August '80, and the Christian Trade Union Solidarity (Popieluszko). There are no reliable estimates of their membership.

The other principal national unions are those affiliated with the All-Poland Trade Union

Alliance (OPZZ), the formerly Communist-aligned confederation established in 1984 as the sole legal alternative to then-outlawed NSZZ Solidarity, and its teachers' affiliate, the Polish Union of Teachers (ZNP). The OPZZ reports that its membership has dropped by more than 50 percent in recent years to about 3 million, but this figure is unverified, and independent sociological surveys suggest that its regular dues-paying membership is considerably less than Solidarity's; a recent survey found that Solidarity represents some 6.3 percent of all Polish workers while the OPZZ represents only 3.6 percent, (one estimate put OPZZ membership at roughly 700,000 to 800,000 workers). According to a study by the State Labor Inspectorate, out of some 27,000 local union organizations, Solidarity had 13,500 organizations, the OPZZ had 11,000 organizations, and Solidarity '80 had 770 organizations.

The law on collective bargaining, in force since 1994, does not require union membership figures to be verified or based on dues-paying members in order for unions to be considered "representative" negotiating partners for management and government. Solidarity protested some unions' (largely OPZZ affiliates) participation in negotiations with the Government on the grounds that their membership figures remain unproved.

Most trade unions were active in politics at all levels. Scores of union activists were parliamentarians, and several became senior government officials. Solidarity plays a key role in political life. With 62 deputies, 27 senators, dozens of ministers, governors, and other senior national and local officials, the union serves as the backbone of the ruling AWS coalition. The OPZZ has 42 deputies, about one-quarter of the opposition Democratic Left Alliance caucus.

Unions have the right to strike except in "essential services." However, labor leaders complain that the 1991 Act on Collective Dispute Resolution prescribes an overly lengthy process before a strike may be called. Employers consider the law too lenient, since it allows only one-quarter of the work force to vote to call a strike. As a result, as many as 60 to 90 percent of strikes called in recent years have been technically "illegal" because one or both of the sides did not follow each step exactly as required by law. Labor courts act slowly on deciding the legality of strikes, while sanctions against unions for calling illegal strikes, or against employers for provoking them, are minimal. Arbitration is not obligatory and depends on the agreement of disputing parties. Unions allege that laws prohibiting retribution against strikers are not enforced consistently, and that fines imposed as punishment are so minimal that they are ineffective sanctions to illegal activity. Workers who strike in accordance with the law retain their right to social insurance but not to pay. However, if a court rules a strike "illegal," workers may lose social benefits, and organizers are liable for damages and may face civil charges and fines. The social partners (unions, employers, and the Government) continued to work out ambiguities in dispute resolution mechanisms in the new Labor Code, which went into effect in 1996, and which represented a major overhaul of Communist-era labor regulations.

The number of strikes in the first 6 months of the year remained relatively low and dropped to 25 from 31 in the same time period in 1998. However, significant work stoppages, hunger strikes, and demonstrations, some violent, took place in the mining, health, armaments, and agricultural sectors at various times throughout the year. In February the All-Poland Doctors' Trade Union, which claims to represent 70 percent of health care workers, launched a 10-day nationwide strike to protest low spending on

health care. The union promised to continue providing emergency, oncological, pediatric, gynecological, and maternity care during the strike. On November 19, between 20 and 50 percent of teachers participated in a protest against low wages and low funding for education.

Unions have the right to join labor federations and confederations and to affiliate with international labor organizations. Independent labor leaders reported that these rights were observed in practice. Solidarity is a full member of the International Confederation of Free Trade Unions, the World Confederation of Labor, and the European Trade Union Confederation.

b. The Right to Organize and Bargain Collectively

The 1991 Law on Trade Unions created a favorable environment for trade union activity. However, labor leaders report that the 1991 law has not prevented employers from discriminating against workers who attempt to organize or join unions, particularly in the growing private sector. The law also has not prevented employer harassment of union members for labor activity.

The 1991 law provides for parties to take disputes first to labor courts, then to the Prosecutor General, and, in the last resort, to the Supreme Court. In a typical year, Solidarity takes several thousand cases to labor courts, several hundred to the Prosecutor General, and dozens to the Supreme Court for resolution. In an overwhelming majority of these cases, the courts ordered employers to correct practices or reinstate dismissed workers or unions to reimburse employers for activity found to be illegal. However, penalties are minimal and are not an effective deterrent.

Enterprise-level collective bargaining over wages and working conditions increasingly characterized the labor relations system. Labor and management are adapting their relationship to the demands of a market economy, but experience in modern labor relations is still in its early stages. Many enterprises rolled over agreements concluded in earlier years.

Since its formation in early 1994, the Tripartite Commission (unions, employers, Government), currently chaired by Labor Minister Longin Komolowski, has become the main forum that determines national-level wage and benefit increases in such politically sensitive areas as the so-called budget sector (health, education, and public employees), while rendering opinions on pension indexation, energy pricing, and other important aspects of social policy. The Commission serves as an important forum in which the social partners air differences, discuss grievances, and often negotiate agreements before problems erupt into social conflict.

Many disputes arose because of the weakness of the employer side of the union/employer/Government triangle. Key state sector employers (largely in heavy industry and the budget sector) still were unable to negotiate independently with organized labor without the extensive involvement of central government ministries to which they are subordinate, although the Government repeatedly stated that its intention was not to be drawn into labor disputes. This weakness complicated and politicized the Government's labor relations system. Claiming that the Government was refusing seriously to discuss labor issues with it, the OPZZ suspended participation in the

Commission in April.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Compulsory labor does not exist, except for prisoners convicted of criminal offenses, and otherwise is prohibited by law, including that performed by children. There were no reports of forced or compulsory labor by children.

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

The law contains strict legal prescriptions about the conditions in which children may work. The Labor Code forbids the employment of persons under the age of 15. Those between the ages of 15 and 18 may be employed only if they have completed primary school and if the proposed employment constitutes vocational training and is not harmful to their health. The age requirement rises to 18 years if a particular job might pose a health danger.

Child labor is not a problem, although the State Labor Inspectorate reported that increasing numbers of minors now work, and that many employers violate labor rules in employing them (by underpaying workers, paying them late, etc.). Inspectors found violations on stud farms, in restaurants, and, in some instances, in small private sector businesses and factories.

The law prohibits forced and bonded child labor, and the Government enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work

The Ministry of Labor, the unions, and employers' organizations negotiate a revised national minimum wage every 3 months. The minimum monthly wage in state-owned enterprises is approximately \$162.50 (650 PLN), which constitutes no real increase over the 1998 amount. This amount was insufficient to provide a worker and family with a decent standard of living in view of rising prices. A large percentage of construction workers and seasonal agricultural laborers from the former Soviet Union earn less than the minimum wage. The large size of the informal economy and the small number of state labor inspectors make enforcement of the minimum wage very difficult. As long as unemployment remains high, workers often agree to inferior working conditions and lower pay in order to find or keep their jobs.

The standard legal workweek is 42 hours, which allows 6- or 7-hour days, including at least one 24-hour rest period. The law requires overtime payment for hours in excess of the standard workweek.

The Labor Code defines minimum conditions for the protection of workers' health and safety. Provisions are strict and extensive, and trade unions have the right to stop production or extract a worker from dangerous working conditions without jeopardy to the worker's continued employment. However, enforcement is a major problem, because the Labor Inspectorate is unable to monitor the state sector sufficiently, much less the

private sector, where a growing percentage of accidents take place. In addition, there is a lack of clarity concerning which government or legislative body has responsibility for enforcing the law.

In the 41,286 work-related accidents reported during the first 6 months of the year, 226 individuals were killed and 589 seriously injured. The Government's Central Statistical Office reported that most accidents were in the public sector, while most serious accidents were in the private sector, where proportionally more deaths also occurred. Solidarity contends that the problem lies not in the law, which establishes safe standards, but in enforcement, because employer sanctions for illegal behavior are minimal. Standards for exposure to chemicals, dust, and noise are exceeded routinely. Workers may remove themselves from dangerous working conditions without losing their jobs, but there were reports that fears of such loss prompted some to stay on the job.

f. Trafficking in Persons

Trafficking in women and children is illegal, and several specific provisions in the Criminal Code address this problem; however, it is a problem. The law prohibits forcing individuals into prostitution, trafficking in human beings, and pimping. Those convicted of trafficking in women or children face a prison term of between 3 and 10 years. The Criminal Code also mandates a sentence of 1 to 10 years for anyone convicted of luring others into prostitution abroad. However, incidents of trafficking to and through the country are on the rise, and the country is a source, destination, and transit point for traffickers. According to police statistics, there were 70 cases (18 of trafficking and 52 of luring women into prostitution abroad) reported in the country in 1998. These cases involved a total of approximately 200 women of Polish and other nationalities. Authorities believe the actual number of Polish women trafficked abroad over the last few years to be much higher. Unofficial estimates suggest that over 20,000 Polish women were trafficked abroad in the last few years. Prosecutions are rare because most victims are hesitant to turn to the authorities due to shame and fear of reprisals. Polish women are trafficked to Western Europe, particularly Germany, Holland, Belgium, Switzerland, and Spain, and to Israel. Poland also is serving more frequently as a destination and transit country for women trafficked from the east, particularly Romania, Bulgaria, and the former Soviet Union. Women from these countries often are forced into prostitution in Poland, then many are sent on to Western Europe and Israel. There is increasing "1-day" or "weekend" trafficking along the border of Poland with Germany, in which traffickers transport women and children across the border for forced prostitution and then return them to the origin or transit country. According to unofficial estimates, approximately 3,000 foreign women "work" as prostitutes in Poland, in most cases under the control of international criminal networks. The NGO La Strada estimates that 3,500 Bulgarian women were trafficked into Poland and currently are forced to work as prostitutes. In 1998 authorities deported 44 women, most from Bulgaria, who were working as prostitutes. There is a growing market for young girls, as young as 12 or 13 years old, due to the perception that younger prostitutes are less likely to have sexually transmitted diseases. Most victims come from backgrounds that are characterized by poverty and lack of opportunity. Traffickers also range from individuals working for their own profit, to organized crime groups, which treat women as one of a diversified group of commodities. Once the women and girls are brought to Poland, traffickers take away their passports and force them into prostitution to work off their debts and earn back their travel documents. Women and girls who resist are raped, beaten, or confined with minimal food and water

until they comply. According to the NGO La Strada, in some cases girls have been killed for resisting traffickers' demands. Recently official awareness of this issue has increased, and while prosecution remains rare, at least one case in recent years resulted in the trafficker receiving the maximum sentence. However, there are no government assistance programs or shelters to assist victims of trafficking. NGO's have reported cases in which trafficked persons upon return to the country were interrogated, fined, or even jailed for using false documents or leaving the country illegally.

In May the Department of Justice organized an international symposium on trafficking in women and children in Legionowo. Government officials and NGO representatives from Poland, Lithuania, and Latvia met to discuss ways to address this growing problem.

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[1999 Report Europe and NIS Index](#) | [Table of Contents](#) | [1999 Report Homepage](#) | [Human Rights Reports Index](#)