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## Indonesia

### Country Reports on Human Rights Practices - 2005

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Indonesia is a multiparty, democratic, presidential republic with a population of approximately 241 million. In October 2004 Susilo Bambang Yudhoyono became the country's first directly elected president as a result of elections that international and domestic observers judged to be free and fair. Voters also chose two national legislative bodies in 2004: the house of representatives (DPR) and the newly created house of regional representatives (DPD). While civilian authorities generally maintained effective control of the security forces, in some instances elements of the security forces acted independently of civilian authority.

There were improvements in the human rights situation during the year and, although significant problems remained particularly in areas of separatist conflict, the end of the country's long-running internal conflict in Aceh Province was a major step forward. The government faced an intermittent, low intensity guerrilla conflict in Papua and West Irian Jaya provinces; inter-communal violence in Maluku and Central Sulawesi provinces; and terrorist bombings in various locations. Inadequate resources, poor leadership, and limited accountability contributed to serious violations by security forces. Widespread corruption further degraded an already weak regard for rule of law and contributed to impunity. Poverty, high unemployment, and a weak education system rendered all citizens, particularly children and women, vulnerable to human rights abuses. During the year the government devoted considerable resources and attention to the recovery effort following the devastating December 2004 earthquake and tsunami that left more than 130 thousand persons dead and missing in Aceh and North Sumatra provinces. The country struggled to come to terms with human rights abuses committed by prior governments. The following human rights problems were reported:

- extrajudicial killings, particularly in areas of separatist conflict
- disappearances
- torture
- harsh prison conditions
- arbitrary detentions
- a corrupt judicial system
- warrantless searches
- infringements on free speech
- restrictions on peaceful assembly
- interference with freedom of religion by private parties, sometimes with complicity of local officials
- violence and sexual abuse against women and children
- trafficking in persons
- failure to enforce labor standards and violations of worker rights, including forced child labor

During the year there were significant improvements in the human rights situation. For the first time, citizens directly elected leaders in 149 local elections at the city, regency (county equivalent), and provincial level. On August 15, the government signed a peace agreement with the Free Aceh Movement (GAM), which both sides implemented thereby greatly reducing human rights abuses in that province. In Papua and West Irian Jaya provinces, the government inaugurated the Papuan People's Assembly and took other steps toward fulfilling the 2001 Special Autonomy Law on Papua. Security forces showed increasing restraint in response to nonviolent separatist demonstrations in Papua. The government began an anticorruption campaign that achieved some results, including high profile convictions.

Armed separatist groups, terrorists, and militant groups also committed serious human rights abuses. In Aceh, prior to the August 15 peace agreement, rebels committed killings and kidnappings. In Central Sulawesi, Maluku, and Bali provinces terrorists conducted bombings that killed and injured many civilians. In Maluku extremists launched an attack against security forces. Militant groups attacked minority religious believers and acted to restrict religious freedom.

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

Security forces continued to commit unlawful killings of rebels, suspected rebels, and civilians in areas of separatist activity, where most politically motivated extrajudicial killings also occurred. There was evidence that the Indonesian Armed Forces (TNI) considered anyone

killed by its forces in conflict areas to be an armed rebel. The government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses in Aceh and Papua.

Following the December 2004 earthquake and tsunami that hit Aceh Province, the government and GAM rebels pursued negotiations that resulted in an August 15 peace accord in the form of a Memorandum of Understanding (MOU). Implementation of the MOU ended an almost three decades-long conflict and resulted in a substantial decrease in human rights violations by the TNI, police, and GAM rebels.

The Human Rights Nongovernmental Organization (NGO) Coalition in Aceh reported that during the year the TNI killed 42 GAM insurgents and arrested 1; 44 civilians were killed. The same organization reported that 40 civilians and 37 GAM members were killed before the MOU and 4 civilians and 5 GAM members were killed after the MOU.

On January 3, in Bireuen, Aceh, six members of the TNI special forces (Kopassus) reportedly killed two men and injured another when the men tried to intervene in the alleged apprehension of the son of a GAM member.

Humanitarian volunteers reported that TNI and Police Mobile Brigade (Brimob) personnel killed three suspected rebels after capturing them during a joint operation in Serba Jaya village in Aceh Jaya District.

The NGO Commission for Disappearances and Victims of Violence Aceh reported that GAM killed seven civilians; the Human Rights NGO Coalition reported that GAM killed 17 soldiers during the year.

On May 4, GAM rebels allegedly shot and killed a seven-year-old boy in North Aceh Regency during a rebel ambush of a vehicle carrying the boy. The incident left 10 others, including three soldiers, injured.

The TNI and the police rarely investigated extrajudicial killings and almost never publicized such investigations.

There was no known progress in the following cases from 2004: the four civilians found dead in a jungle near Peureulak, East Aceh; the killing of civilian Cut Musdaifah in Wakheuh village; the alleged GAM killing of local legislature candidate Muhammad Amin; and the shooting death of a paramedic in South Aceh. There were no developments in the May 2003 killing of local legislature member Jamaluddin Hasany; in the July 2003 killing of former GAM member Cut Aca Budi; in the July 2003 killing of schoolteachers Muslim Sulaiman and his wife Darmawati; or in December 2003 bombing that killed 9 persons at an outdoor concert in Peureulak.

In Papua Province, the government continued to conduct operations against rebels of the Free Papua Movement (OPM), and OPM rebels continued sporadic, low intensity operations against military and police units. TNI authorities estimated that OPM forces consisted of 620 guerrillas armed with approximately 150 firearms ranging from modern M-16s to outdated Mausers.

On January 17, TNI personnel allegedly beat local Papuan residents in Nabire, leaving seven seriously injured and one, Miron Wonda, dead. On April 10, in pursuit of a group of 11 OPM rebels, police carried out a raid in Mulia City, capital of Puncak Jaya Regency; the police shot and killed Tolino Iban Giri and arrested eight other persons. Local church leaders told the press that Tolino Iban Giri and the eight others were not members of OPM.

In March, in Mulia, according to the military district command, an unknown person, believed to be an OPM member, shot and killed local civilian Tinius Tabuni.

Also in Papua, the TNI and police continued to cooperate with US law enforcement in their joint investigation of the 2002 ambush that killed 2 American citizens and 1 Indonesian and injured 12 other persons near a large gold and copper mine near the city of Timika. A joint task force sought to apprehend the perpetrators, including OPM guerrilla Anthonious Wamang, who was indicted by a US grand jury in connection with the killings.

The government made limited progress in establishing accountability for numerous human rights violations committed in Papua in previous years, including those committed in Biak (1998), Abepura, Wasior, and Wamena. During the year a human rights court in Makassar acquitted both defendants of all charges in the 2000 Abepura case in which police allegedly killed at least 3 persons and assaulted up to 100 persons during a raid (see section 1.e.). In 2004 the National Human Rights Commission (Komnas HAM), an independent organization created and funded by the government, completed its report on the 2001 Wasior incident, in which police allegedly killed 12 civilians following an attack on a police post that left five policemen dead, and on the 2003 Wamena incident, in which dozens of residents of the central highlands area of Kuyowage allegedly were tortured and villages razed during a military operation that followed the April 2003 break-in at the Wamena armory. In these two cases, the commission found that soldiers and police had committed gross human rights violations, including murder, forced displacements, and torture. Komnas HAM categorized these violations as crimes against humanity and, in September 2004 submitted its report to the attorney general's office (AGO) for possible prosecution. The AGO reportedly told Komnas HAM that it would not investigate the case because Komnas HAM's report did not meet the AGO's standards or represent admissible testimony. At year's end, Komnas HAM had no plans to revise its report.

Police used deadly force to apprehend suspects or acted recklessly in pursuit of suspects, and these actions sometimes resulted in the deaths of civilians. In other cases, suspects in police custody died under suspicious circumstances.

On March 27, during a raid on a gambling establishment, police shot Sunaryoko in Tasikmadu village, East Java. Local police later detained the officers involved and reportedly disciplined them. No details about the nature of the disciplinary action were available.

During the year the government made no significant progress establishing accountability for the following 2004 abuse cases: the beating death of an East Java resident by police in June, the August killing of three persons who allegedly tried to escape police custody in Sragen, Central Java, the August killings of Hermansyah and Ade Candra who allegedly tried to escape police questioning in Pekanbaru, or the July police shooting in Poso that injured Bambang, a wrongly accused murder suspect.

In September 2004 unknown persons fatally poisoned prominent human rights activist Munir Said Thalib on a flight from Jakarta to the Netherlands via Singapore. According to a Dutch government autopsy, the cause of death was arsenic poisoning. On December 20, the Central Jakarta Court convicted Pollycarpus Budihari Priyanto, a pilot who was on the flight as a passenger, for the murder of Munir and sentenced him to 14 years in prison. The judges described the murder as a conspiracy and called for further investigation. A report on the case prepared by a presidentially appointed fact-finding team was not publicly released, but, according to press reports, concluded that Munir's killing was a conspiracy and recommended investigation of former and current officials of the State Intelligence Agency (BIN) and of Garuda airlines officials. At year's end both the prosecution and the defense were appealing the trial court's decision on Pollycarpus.

There was no progress in the investigation of the 2003 alleged suicide of Ihwanuddin, a suspected member of the terrorist organization Jemaah Islamiya (JI).

On March 29, the Palu District Court in Central Sulawesi, sentenced Sofyan, previously detained for suspected involvement in the 2004 killing of prosecutor Ferry Silalahi, to eight months in prison for possessing an illegal firearm. He was acquitted of all charges in the killing of Silalahi. During the year police arrested three new suspects for the shooting of Silalahi: Hence Said, Farid Podungge, and Wagiman. In August police turned Wagiman's case file over to prosecutors for trial; however, there have been no reported developments since that time. In November police arrested Andi Ipong, a suspect in as many as nine cases of violence in Palu and Poso. At year's end he was being questioned. There was no progress in the investigation of the 2004 killing of Reverend Freddy Wuisan near Membuke Church, Poso.

The government made very little progress during the year in prosecuting those responsible for the 1998 killing of four students at Trisakti University and nine demonstrators at Semanggi intersection, and the 1999 killing of an additional four demonstrators at Semanggi. In 2004 Komnas HAM Chairman Abdul Hakim Garuda Nusantara asked the DPR to reverse its 2001 decision not to classify these cases as human rights violations. In July members of the DPR representing several political parties proposed forming a special committee to reopen the shooting cases based on the recommendation from the House Commission for Legal and Human Rights. However, by year's end, there were no known further developments.

During the year bombings occurred in Aceh, Bali, the Maluku islands, and Sulawesi. On October 1, three suicide bombers killed 19 persons and injured more than 100 in the tourist areas of Kuta and Jimbaran in Bali. Several senior members of the terrorist organization JI, including Malaysian national Noordin Mohammad Top, remained at large and the focus of law enforcement counter-terrorism efforts.

The courts tried a number of suspected terrorists in connection with major terrorist incidents, including the September 2004 bombing of the Australian embassy, which killed 10 and injured more than 150. Law enforcement and judicial officials arrested, tried, and convicted six men for their roles in the attack. Two of the perpetrators, Iwan Dharmawan Mutho and Achmad Hasan, both charged with planning and organizing others for the attack, received death sentences. Their appeals were pending at year's end. The other four convicted persons received sentences ranging from 3½ to 10 years in prison.

On November 9, the police exchanged gunfire with approximately five suspected terrorists, resulting in the death of two and the wounding of one police officer. The dead included Azahari bin Husin, a Malaysian national and expert bomb-maker linked with four major terrorist bombings, including the October 1 Bali bombing.

In August the Makassar District Court in South Sulawesi sentenced Agung Abdul Hamid to life imprisonment for the 2002 bombings of a McDonald's restaurant and a Toyota car dealership.

The courts continued with prosecutions related to the August 2003 Marriott hotel bombing that killed 12 persons. By year's end the courts sentenced 15 suspects to terms ranging from 3 to 12 years. The trials of two other suspects were ongoing.

Since 2002 courts convicted nearly 130 persons in connection with terrorist attacks. The harshest punishments included five death sentences and seven life sentences.

In Central Sulawesi, at least 37 persons were killed, and at least 104 persons were injured during the year. Political and economic tensions between Christians and Muslims contributed to the violence.

On May 28, a bomb exploded in a major market in the Christian majority town of Tentena, Poso Regency, killing at least 21 persons and injuring 40 others. Other small explosions occurred in front of the Indonesian Democratic Party-Struggle's office on May 15; at the Tentena market on June 29; and in the back yard of the Poso election commission on July 12. No major casualties were reported in these incidents.

During the year 13 persons were killed and approximately 80 injured in Maluku Province, significantly fewer than in 2004. As in Central Sulawesi and other conflict areas, it was not clear whether these deaths were due to interreligious conflict, or to criminal or other motives.

On May 16, unidentified gunmen attacked a Brimob operations command post in Loki village, Piru District, in West Seram Island, Maluku Province, killing seven persons, including five police officers. Police said the attackers were members of a local Islamic extremist group. On May 19, police arrested two suspects, who reportedly admitted to the attacks.

Government and police continued to make some progress in handling conflicts in Central Sulawesi and Maluku. Police made stronger efforts to investigate, arrest, and prosecute those involved in violence. In August two suspects were arrested in the investigation into the November 2004 shooting death of Reverend Susianti Tinulele; there was no further reported progress in the case. In June police declared 18 persons suspect in the May 28th Tentana bombing, including Hasman, the head of Poso prison. Police subsequently released Hasman and 13 others for lack of evidence. In October and November, five teenage girls--four Christian and one Muslim--were killed in and near Poso, Central Sulawesi (see section 2.c.).

The Central Sulawesi provincial government and police pressed in some cases for the investigation and trial of security forces allegedly involved in past religious violence in that province. In April the national police headquarters publicly named a senior police officer as a suspect in December 2004 church bombings in Palu, Central Sulawesi--the first senior officer so identified.

In March the Maluku police detained 3 men for possible involvement in that month's bus attack that killed 4 and injured 14.

#### b. Disappearance

During the year dozens of disappearances occurred, most frequently in Aceh Province, and large numbers of persons who disappeared over the past 20 years, mainly in conflict areas, remained unaccounted for. The government reported little progress in prosecuting those responsible for disappearances that occurred in previous years.

According to the Human Rights NGO Coalition, in Aceh, 31 civilians and 1 GAM member were kidnapped during the year; 46 civilians and 4 GAM members reportedly were kidnapped in 2004. There were no reports of kidnappings after the signing of the MOU.

The security forces were implicated in some disappearances. On January 22, five TNI officers in civilian clothes allegedly kidnapped a civilian, Hamdani, and threatened his wife. The soldiers freed Hamdani three days later. On April 21, two units of the Military Joint Intelligence Unit allegedly kidnapped Dhalan bin Abdurrahman and Ardiyansyah bin Amin Yusuf, both accused of being GAM members, while conducting an operation in Cot Bak U village.

There was no known progress in the 2004 case of a wounded 16-year-old boy whom police allegedly took into custody or in the cases of Mukhlis and Zulfikar, members of the local NGO Link for Community Development.

The GAM also abducted persons during the year. On February 14, GAM members allegedly kidnapped four persons, including an eight-year-old child, and demanded a ransom. At year's end their whereabouts remained unknown. In June GAM members allegedly abducted Marhaban, a Muslim cleric representing the United Development Party, after failure to extort money from him. GAM released Marhaban after he paid an unspecified amount of money.

There was no known progress in the 2004 disappearances of elementary school teachers Muhammad Amin Alwi and Hasballah who were forcibly taken by 10 armed men in military uniforms in Nagan Raya Regency.

On December 10, police arrested the suspected kidnapper of Pentecostal minister Jarok Ratu, who was kidnapped in South Buru Island, Maluku Province in December 2004. The minister remained missing at year's end.

On September 14, Komnas HAM announced the results of their inquiry into the 1998 abductions of 12 to 14 prodemocracy activists during the rule of former president Suharto. Despite refusals from military personnel to cooperate in the investigation, Komnas HAM concluded that all victims still missing were dead and identified suspects for an official investigation without publicly releasing their names.

In Papua there were no credible reports of disappearances during the year. The government did not report any progress in prosecuting those responsible for disappearances that occurred in previous years, including those of Martinus Maware, Mathius Rumbapuk, or Hubertus Wresman.

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

The law makes it a crime punishable by up to four years in prison for any official to use violence or force to elicit a confession; however, law enforcement officials widely ignored such statutes. Security forces continued to employ torture and other forms of abuse. The government made some efforts to hold members of the security forces responsible for acts of torture. During the year the use of torture to obtain confessions from suspects was most apparent in Aceh and Papua.

Torture was sometimes used to obtain confessions, punish suspects, and seek information that incriminated others in criminal activity. Security forces also allegedly used torture to extort money from villagers. Reliable figures on the number of incidents of torture that occurred during the year were difficult to obtain. Torture used included random beatings, bitings, whippings, slashings, and burnings.

In Aceh Province the Human Rights NGO Coalition reported 80 cases of civilians and no cases of GAM members tortured, compared with 77 civilians and 7 GAM members tortured in 2004. In September 2004 Human Rights Watch (HRW) reported widespread abuse of prisoners in Aceh by security forces, including electric shocks and beatings with wooden beams and gun butts. The government announced it would investigate the allegations; however, at year's end, there were no known investigations.

The Legal Aid Foundation in Papua and Komnas HAM in Papua reported that there were 35 cases of torture by security forces in Papua during the year.

On February 16, 10 Marines reportedly beat 6 internally displaced persons (IDPs) in Aceh for being unable or unwilling to supply them with information on the whereabouts of GAM members. In another alleged incident, eight TNI members dragged a 53-year-old village head behind a pickup truck from his village to the nearest TNI post, allegedly as punishment for not reporting that GAM members passed in front of his house on occasion.

In May local NGOs accused a police officer and three military personnel of torturing Ivan Mardiwana, a Surabaya resident. The then Surabaya police chief publicly pledged to investigate the case; at year's end, no information regarding the status of an investigation was available. In January the NGO People's Justice and Human Rights Legal Aid Commission (LBHKR-HAM) reported the Surabaya police to the provincial legislature for alleged human rights violations. LBHKR-HAM accused the Surabaya police of mistreating two suspects during interrogation in a narcotics case.

On July 14, soldiers allegedly tortured a presumed OPM member by slashing his face and body with a knife and razor and then pouring petrol over his head and setting his hair on fire. On July 22, 14 soldiers allegedly tortured two Papuan civilians over the course of a day. The soldiers reportedly kicked, bit, and punched them. The soldiers then tied up one of the victims and set fire to dried weeds on his back after whipping him.

The government reported no progress in prosecuting those responsible for acts of torture committed in Aceh in 2004 or 2003, including in those cases detailed in reports by HRW and Amnesty International (AI).

There was no new progress in the case of suspected JI member Saifudin Umar, alias Abu Fida, who was found seriously injured in an East Java hospital in August 2004. He claimed to have been secretly arrested and tortured by police, who admitted arresting Abu Fida for helping to hide two JI fugitives; however, police denied torturing him.

On March 24, in Blang, Bintang District of Aceh Besar, the Banda Aceh military court sentenced six military personnel to three months in jail each for beating Farid Faqih on January 26. Faqih was in custody for allegedly stealing aid meant for victims of the December 2004 tsunami.

During the year television news broadcasts frequently aired scenes of police hitting and kicking apprehended criminal suspects, including minors, and footage of persons in police custody who clearly appeared physically abused.

On June 24, in Aceh, Shari'a (Islamic law) police publicly caned 52 persons convicted of gambling, consumption of alcohol, and being alone with members of the opposite sex who were not blood relatives.

On August 15, dozens of military personnel from an infantry battalion in Lumajang, East Java, attacked Kalibuntu village of Probolinggo Regency, East Java. The incident left approximately 100 persons injured and several motorcycles, cars, and houses damaged. Local residents believed the attack may have been prompted by the stabbing a week earlier of a member of the battalion by a village resident. The East Java military commander later apologized publicly to local residents and promised to fire all personnel involved in the attack. In August the military discharged the battalion commander and two other members of the infantry battalion involved in the attack.

Rapes occurred in conflict zones (see section 5). Human rights advocates blamed many of the rapes on soldiers. Statistics were unavailable, but credible sources provided a number of accounts involving soldiers. The extent to which rape was a problem in Aceh was hard to assess, due to social stigma, lack of reporting, and restricted access to the region.

The Council of the Central Information for Referendum Aceh (SIRA) (a GAM-funded NGO) reported four cases of rape by military personnel in Aceh.

According to SIRA, on February 7, soldiers raped a villager in Julok, East Aceh. The local unit commander questioned the victim but there was no information regarding any further investigation. SIRA also reported that on May 6, soldiers raided a house in Kambam, North Aceh in search of a suspected GAM member but when the soldiers found only his wife they interrogated and raped her, reportedly as punishment for her answers regarding her husband's activities and whereabouts.

There was no reported progress in the investigation of the 2004 case of the TNI soldiers who repeatedly raped a 16-year-old girl in Kampung Meureu Baro-Indrapuri over a period of several months, leaving her pregnant.

In September police charged Bogor police chief Bambang Wasgito with assault for slapping a subordinate who failed to intervene in an attack against Wasgito's 15-year-old son. Wasgito's driver was also charged with serious assault for causing severe injuries.

On April 29, Brimob personnel attacked a TNI soldier in revenge for a previous assault by a group of soldiers on a police station in Cimanggis, Depok. According to the latest public information available, the police had no suspects at year's end.

On March 21, two unidentified men hurled a hand grenade into a Muslim neighborhood in the Baturerah area of Ambon City, injuring five persons. The incident sparked retaliation from Muslim residents, who attacked a bus carrying Christians in the nearby Kapaha neighborhood, injuring a total of 14 persons.

On April 26, in Poso City two small explosions occurred in front of the offices of the NGOs, Poso Conflict Resolution Working Group and Institute for the Empowerment of Civil Society; there were no injuries. Police and local persons believed that the attacks were related to upcoming local elections or a corruption case involving Poso refugee funds.

On August 24, a home-made bomb exploded inside a pedicab in the Mardikaa market in Ambon, injuring nine persons and damaging motorcycles and cars parked nearby. Police made five arrests, four of them just hours after the incident. While in pursuit of the four, police shot and wounded two suspects, one of whom died in the hospital. At year's end the police were investigating the suspected planner of the bombing.

Mobs carried out vigilante justice, but reliable statistics on such actions were not available. Incidents of theft or perceived theft triggered many such incidents. For example, on February 13, in Banyumas, Central Java, a mob beat and badly injured Suhartim after a house owner spotted him breaking into his house. On July 4 in Sanur, Bali, a mob beat Putu Bayu Widianantara for stealing a cellular telephone. No official action was taken against those responsible for these beatings.

Unlike last year there were no reports of security forces marking the houses of families of suspected GAM members with a red "X" or "GAM."

No known progress was made in the investigation of the alleged revenge burning by Brimob of 80 shops and homes in Keude Seuneddon, North Aceh, in a 2003 incident that occurred immediately after the killing of 2 Brimob officers.

#### Prison and Detention Center Conditions

Conditions at the country's 365 prisons and detention centers were harsh, and overcrowding was widespread. Occupancy frequently was two or three times over recommended capacity. Guards regularly mistreated inmates and extorted money from them. There were widespread reports that the government did not supply sufficient food to inmates, and family members often brought food to supplement their relatives' diets. Unruly detainees were held in solitary confinement for up to six days on a rice-and-water diet.

On July 30, Miftahudin Yulianto, a prisoner at Salemba Prison, died after allegedly being denied proper medical attention.

The wealthy or privileged had access to better treatment in prison. During the year the country's most famous inmate, Hutomo "Tommy" Suharto, the son of former president Suharto convicted of arranging the killing of a judge in 2004, reportedly left his Central Java prison cell for Jakarta every month via helicopter and stayed at a luxury hotel while being treated at Subroto Army Hospital for a benign tumor behind his eye.

Most children convicted of serious crimes served their sentences in juvenile prisons. However, in the arrest and trial phases, authorities held juveniles in detention centers with adults (see section 5). In theory, prisons held those convicted by courts, while detention centers held those awaiting trial; however, in practice, pretrial detainees at times were held with convicted prisoners.

There were no official restrictions on prison visits by human rights monitors, and prison officials granted varying degrees of access. The International Committee of the Red Cross made some visits to prisoners during the year.

#### d. Arbitrary Arrest or Detention

The law contains provisions against arbitrary arrest and detention but lacks adequate enforcement mechanisms, and authorities routinely violated it. The law provides prisoners with the right to notify their families promptly and specifies that warrants must be produced during an arrest. Exceptions are allowed if, for example, a suspect is caught in the act of committing a crime. The law allows investigators to issue warrants; however, at times, authorities made arrests without warrants.

#### Role of the Police and Security Apparatus

The president appoints the national police chief, subject to DPR confirmation. The police chief reports to the president but is not a full member of the cabinet. The National Police has approximately 250 thousand officers deployed throughout the 33 provinces. The police have largely maintained a centralized hierarchy, in which local police forces formally report to their national headquarters rather than to local governments. The military is responsible for external defense but also has domestic security responsibilities. In Aceh the Shari'a police, a provincial body, is responsible for enforcing Shari'a law.

During the year police generally improved their ability to fight crime and apprehended more than 45 suspects in terrorist attacks. Overall, however, police professionalism remained low, as did their respect for human rights and effectiveness at investigating human rights abuses. Impunity and corruption remained significant problems. There were instances in which the police failed to respond to mob or vigilante violence. Police commonly extracted bribes, from minor payoffs in traffic cases to large bribes in criminal investigations. The Division of Profession and Security (Propam) reportedly investigated 90 police officers in Jakarta, resulting in 34 dismissals during the year. Other punishments varied from demotion to criminal prosecution. Unlike in previous years, the police also investigated several high-ranking police officers. In October Propam arrested police Brigadier General Ismoko for discriminatory practices against suspects in the Bank Negara Indonesia (BNI) bank fraud case. He has been charged under criminal law and at year's end was awaiting trial. In the same BNI case, Commissioner General Suyitno Landung (former head of the Criminal Investigation Division and current governor of the National Institute of Defense) was arrested in December on suspicion of accepting bribes.

In November Propam forced police Inspector General Binarto into early retirement; Binarto admitted sending a text message to the chief of police in Surabaya asking him to release a suspect in a case of illegal logging.

In December Propam declared Inspector General Saleh Saaf a suspect in the investigation of corruption in the purchase of communications equipment.

## Arrest and Detention

A defendant may challenge the legality of his arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained; however, defendants rarely won pretrial hearings and almost never received compensation after being released without charge. Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention. The law limits periods of pretrial detention. Police are permitted an initial 20-day detention, which can be extended to 60 days; prosecutors may detain a suspect 30 days initially, with a 20-day extension permitted. Prosecutors may extend police detention periods, and a district court may further extend prosecutors' detention of a suspect. The district and high courts may detain a defendant up to 90 days during trial or appeal, while the Supreme Court may detain a defendant 110 days while considering an appeal. In addition, the law allows detention periods to be extended up to an additional 60 days at each level if a defendant faces a possible prison sentence of 9 years or longer or if the individual is certified to be mentally or physically disturbed. Authorities generally respected these limits in practice.

In areas of separatist conflict, such as Aceh and Papua, police frequently and arbitrarily detained persons without warrants, charges, or court proceedings. The authorities rarely granted bail, frequently prevented access to defense counsel during investigations, and limited or prevented access to legal assistance from voluntary legal defense organizations.

On March 3, Brimob forces detained Muladi bin Sulaiman, a farmer from Aceh Jaya Regency suspected of being a GAM member, and beat him until he was unconscious. He was later transferred to West Aceh police resort before his release.

## Amnesty

On August 30, the government amnestied more than 1,500 GAM prisoners. In accordance with the MOU, the government unconditionally released all remaining prisoners and detainees held due to the conflict. The government facilitated the reintegration of the released prisoners, which proceeded without violence. The government continued to hold a relatively small number of GAM personnel who it maintained had been convicted on criminal charges.

### e. Denial of Fair Public Trial

The law provides for judicial independence. In practice, the judiciary became increasingly independent but remained influenced at times by the executive branch, the military, business interests, and politicians. The Constitutional Court demonstrated significant independence and, in some major cases, ruled against the government. Low salaries continued to encourage corruption, and judges were subject to pressure from government authorities, which often influenced the outcome of cases.

Under the Supreme Court are general, religious, military, and administrative courts. The law provides for the right of appeal. The Supreme Court does not consider factual aspects of a case but rather the lower court's application of the law. Parallel to the Supreme Court is the Constitutional Court, which is empowered to review the constitutionality of laws, settle disputes between state institutions, dissolve political parties, resolve certain electoral disputes, and decide allegations of treason or corruption against the president or vice president. The judicial branch theoretically is equal to the executive and legislative branches, and it has the power of judicial review of laws passed by the DPR; government regulations; and presidential, ministerial, and gubernatorial decrees. In practice, the judiciary was less influential than the executive and legislative branches.

In the country's 2,418 district courts, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and assessing punishment. At times, judges reversed initial judgments in the appeals process, and sometimes lengthened or shortened sentences. Both the defense and prosecution can appeal verdicts.

## Trial Procedures

The law presumes that defendants are innocent until proven guilty. It also permits bail, which was used but rarely in areas of separatist conflict. Court officials sometimes accepted bribes in exchange for granting bail. Defendants have the right to confront witnesses and call witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases, sworn affidavits may be introduced. The courts allowed forced confessions, particularly in conflict areas, and limited the presentation of defense evidence. Defendants have the right to avoid self-incrimination but generally were required to give testimony before the conclusion of a trial. However, in practice, defendants regularly refused to answer questions.

The law gives defendants the right to an attorney from the time of arrest and at every stage of examination, and requires that counsel be appointed in cases involving capital punishment or a prison sentence of 15 years or more. In cases involving potential sentences of five years or more, the law requires the appointment of an attorney if the defendant is indigent and requests counsel. In theory, indigent defendants may obtain private legal assistance, and nongovernmental lawyer associations provided free legal representation to indigent defendants. For example, the Women's Legal Aid Foundation (LBH-APIK) represented many women who otherwise could not afford representation. In many cases, procedural protections, including those against forced confessions, were inadequate to ensure a fair trial.

Prior to the implementation of the MOU, many suspected GAM members were denied their right to a fair trial. Defendants rarely had counsel present during interrogations and usually had no counsel during court proceedings. Defendants rarely were able to confront their accuser. The prosecution usually based its cases on testimony given by witnesses to government investigators; neither witnesses nor investigators appeared in court, and only written witness statements were submitted. Prosecutors rarely produced physical evidence, which they claimed was not available because it consisted of military weapons. In 2004 a lawyer with a legal aid organization told AI that in nearly 100 cases handled by his organization only 2 defense witnesses agreed to appear.

Widespread corruption continued throughout the legal system. Bribes influenced prosecution, conviction, and sentencing in countless civil and criminal cases. The National Ombudsman Commission (KON) reported that 36 percent of complaints they received were related to judicial corruption, which involved judges, clerks, and lawyers. For example, former Aceh Governor Abdullah Puteh's attorney, Teuku Syaifuddin Popon, was caught delivering \$25 thousand (250 million rupiah) to two Jakarta high court clerks, Ramadhan Rizal and Mochammad Soleh, to win his client's case. Popon, Rizal, and Soleh were all standing trial at year's end. On September 30, the Corruption Eradication Commission (KPK) arrested five employees of the Supreme Court and a lawyer in an alleged bribery incident involving Probosutedjo, the half-brother of former president Suharto. According to press reports, KPK officials confiscated approximately \$480 thousand (approximately 5 billion rupiah), which they believed was to be used to bribe Supreme Court Chief Justice Bagir Manan (see section 3). Probosutedjo admitted to paying \$600 thousand (6 billion rupiah) to his lawyer to bribe the court, but claimed he did so to assist an anticorruption investigation. Bagir Manan denied accepting a bribe from Probosutedjo.

Most judges earned \$180 to \$203 (1.8 million to 2.03 million rupiah) per month, while a judge with three decades' experience earned approximately \$594 (5.94 million rupiah) per month. Key individuals in the justice system not only accepted bribes but also appeared to turn a blind eye to other government offices suspected of corruption.

Apart from the handful of soldiers who were tried in human rights courts, hundreds of low-level and sometimes mid-level soldiers were tried in military court, including for offenses that involved civilians or occurred when soldiers were not on duty. If a soldier was suspected of committing a crime, military police investigated and then passed their findings to military prosecutors, who decided whether or not to prepare a case. While administratively managed by the TNI, military prosecutors and judges were responsible to the AGO and the Supreme Court for the application of laws. However, under the "one roof system" adopted in 2004, the Supreme Court exercises administrative control over military and religious courts. A three-person panel of military judges heard trials while the military high court and the military supreme court heard appeals. Some civilians criticized the short length of prison sentences imposed by military courts. TNI legal officials noted that all personnel sentenced to terms of three months or longer, regardless of their record or length of service, were discharged from military service.

Four district courts adjudicated cases of gross human rights violations. The law provides for each court to have five members, including three noncareer human rights judges, who are appointed to five-year terms. Verdicts can be appealed to the standing high court and the Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights.

On September 8 and 9, in its first verdict, the country's first permanent human rights court in Makassar, South Sulawesi, found that 2000 police attacks against almost 100 victims in Abepura, Papua, were not "crimes against humanity"; the court dismissed all charges against Brimob Brigadier General Johnny Wainal Usman and South Sulawesi Police High Commissioner Daud Sihombing. The court also denied the victims' request for rehabilitation and compensation. Prosecutors appealed to the Supreme Court, which had not begun its review of the decision at year's end (see section 1.a.).

In August 2003 the ad hoc Human Rights Tribunal for East Timor concluded its trial phase in Jakarta. Of the 18 defendants, 6 were convicted at the trial level: Adam Damiri (3 years), Abilio Jose Soares (3 years), Noer Muis (5 years), Eurico Guterres (10 years), Sudjarwo (5 years), and Hulman Gultom (3 years). The defendants were convicted in connection with atrocities that occurred during April 1999 and September 1999 in three East Timor locations: Liquica, Dili, and Suai. In July 2004 the Jakarta High Court overturned the convictions of Damiri, Noer Muis, Hulman Gultom, and Sudjarwo, and reduced Guterres' sentence from 10 years to 5 years but confirmed Soares' sentence. In 2004 the Supreme Court acquitted Soares. During the year the Supreme Court confirmed the High Court's acquittal of Sudjarwo and Gultom and the trial court's acquittal of Tono Suratman. The prosecution did not appeal Damiri's case. At year's end the Supreme Court was still reviewing the cases of Noer Muis and Guterres.

East Timor's Serious Crimes Unit indicted a total of 391 individuals for crimes against humanity committed during and after the 1999 referendum; however, 290 of these individuals remained at large with little chance of being returned to East Timor to stand trial. During the year the UN sent a Commission of Experts to Indonesia to evaluate the ad hoc tribunal and Serious Crimes Unit and to recommend next steps for achieving accountability. The commission recommended that either Indonesia retry the perpetrators of violence within six months or that the cases be tried before an international tribunal. The commission also included the possibility of an exceptional international criminal code investigation (that would extend the Court's jurisdiction to crimes committed before its establishment) if the above recommendations were not implemented.

Meanwhile, the governments of Indonesia and East Timor formed a bilateral Truth and Friendship Commission (TFC) to address accountability for the 1999 crimes. Indonesia's commissioners included a Catholic bishop, a senior diplomat, former members of Komnas-HAM and a retired general. The TFC began work, but did not hold public hearings or reach any findings by the end of the year.

In 2003 the ad hoc human rights tribunal for the 1984 Tanjung Priok incident, in which dozens and perhaps hundreds of persons were shot and killed, held its first court sessions in Jakarta. Panels consisting of 5 judges heard the cases of 16 defendants, including retired Army Major General Pranowo; retired Army Major General Rudolf Adolf Butar-Butar; Army Major General Sriyanto Muntrasan, the commander of Army Special Forces; and other lower-ranked military officers and enlisted personnel under the command of Captain Sutrisno Mascung. All of the defendants faced charges of crimes against humanity. The tribunal sentenced Butar-Butar to 10 years in prison and found 13 others guilty and sentenced them to 2 or 3 years in jail. The prosecutors had requested 10-year sentences. The court found Pranowo and Muntrasan not guilty. In July the high court overturned all 14 convictions and upheld the lower court's finding that Pranowo and Muntrasan were not guilty as well. At year's end, all 16 defendants remained free as the Supreme Court considered the AGO's second level appeal.

In September 2004 the Central Jakarta District Court found *Tempo* magazine chief editor Bambang Harymurti guilty of criminal libel and sentenced him to a year in prison. NGOs and journalists complained that the court should have applied the 1999 Press Law rather than the Criminal Code in the case. The use of the Press Law would have provided plaintiff Tomy Winata the right of reply or imposed a fine on *Tempo* rather than a prison sentence. During the year Harymurti filed an appeal but lost again at the high court. At year's end, Harymurti

remained free pending the outcome of his second appeal (see section 2.a.).

In September 2004, the DPR passed legislation to establish a "Truth and Reconciliation Commission" to investigate human rights violations before making recommendations to the president to grant amnesty to abusers and rehabilitation to their victims. The legislation would allow the commission to recommend amnesty for a confessed violator even in cases in which the victim does not consent. Once the commission has resolved a case, it cannot later be filed in a human rights court. During the year the government took steps to form the commission. The selection committee narrowed the pool of candidates to 42, from an original pool of 1,883 candidates; the president, with DPR approval, will ultimately select 21 commission members.

In October 2004 Supreme Court Chief Justice Bagir Manan inaugurated the first Shari'a courts in Aceh. Under the new system, 19 district religious courts and 1 court of appeals heard cases. The courts heard only cases involving Muslims and used decrees formulated by the Aceh local government rather than the penal code. During the year a new gubernatorial decree made caning the Shari'a court punishment for persons found guilty of gambling, drinking, or being alone with a nonrelated member of the opposite sex (see sections 1.c. and 2.c.).

#### Political Prisoners

The August 15 MOU signed between the government and GAM rebels required the government to release "political prisoners and detainees held due to the conflict..." This group of prisoners largely consisted of persons held by the government based on their alleged association with or participation in the armed secessionist conflict, or alleged acts of treason associated with the conflict. The government implemented this requirement but continued to hold a relatively small number of persons whom it said had been convicted of criminal offenses.

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

The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. The law also provides for searches without warrants when circumstances are "urgent and compelling." Security officials occasionally broke into homes and offices. The authorities occasionally conducted surveillance on individuals and their residences and monitored telephone calls. Corrupt officials sometimes subjected migrants returning from abroad, particularly women, to arbitrary strip searches, theft, and extortion at special lanes set aside at airports for returning workers.

Land disputes generated charges of unfair evictions and the use of excessive force by security officials. The NGO Jakarta Resident Forum estimated that security officials evicted at least 5 thousand persons during the year compared with 20 thousand in 2004.

The National Identity Card (KTP), which all citizens are required to carry, identifies the holder's religion. NGOs charged that the KTPs undermined the country's pluralistic tradition and endangered cardholders who traveled through an area of interreligious conflict. Members of the five religions officially recognized by the government—Islam, Protestantism, Catholicism, Hinduism, and Buddhism—had little or no trouble obtaining accurate identification cards; however, members of other religions frequently were denied either a card or one that accurately reflected their faith. Additionally, low-level officials and village heads responsible for issuing KTPs often demanded small bribes or made the process inordinately bureaucratic, which made it difficult for disadvantaged groups such as itinerant workers, the poor, and the homeless to obtain KTPs.

In many parts of the country, particularly in Kalimantan and Papua, local residents believed that the government-sponsored transmigration program interfered with their traditional ways of life, land usage, and economic opportunities. No new families have transmigrated since 2004. The government continued to support at least 87,678 households moved in previous years from overpopulated areas to 369 more isolated and less developed areas in 24 different provinces.

The government used its authority, and at times intimidation, to appropriate land for development projects, often without fair compensation. In other cases, state-owned companies were accused of endangering resources upon which citizens' livelihood depended. On May 3, President Yudhoyono signed a decree on land acquisition for public use, which allows the government to acquire land for public development projects even if landowners have not agreed on the amount of compensation. A number of NGOs argued that the decree served the interests of wealthy developers at the expense of the poor.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The law provides for freedom of speech and freedom of the press; however, the government at times restricted these rights in practice. A vigorous, independent media operated in the country and generally expressed a wide variety of views without restriction. However, during the year the government jailed at least three antigovernment protestors convicted of "insulting the president" or "spreading hatred against the government" and four others for raising separatist flags. In addition, politicians and powerful businessmen often filed criminal or civil complaints against journalists whose articles they found insulting or offensive. Also during the year some journalists faced threats or violence.

In May a court sentenced two student activists to jail for insulting the president. The court sentenced Monang Johannes Tambunan, a student activist of the Indonesian National Students Movement Presidium, to six months in prison for calling the president a dog and a pig during a January 28th demonstration held in front of the presidential palace. On May 26, the court sentenced Bay Harkat Jonday Firdaus, a Syarif Hidayatullah State Islamic University student, to five months and two days in prison for burning pictures of President Yudhoyono and Vice President Jusuf Kalla during a protest against the fuel price increase in December 2004. On June 10, the Denpasar District Court sentenced I Wayan Gendo Suardana, a law student at Udayana University, to six months in prison for setting fire to the president's picture

during a protest against the government's plan to raise fuel prices.

Courts convicted four persons in Papua of treason for raising the separatist "Morningstar" flag. Courts sentenced Filep Samuel Karma to 15 years in prison and dismissed him from the civil service; Yusak Pakage to 10 years; Moses Aspalek to 6 years; and Moses Holago to 4 years (see section 2.b.).

In May, according to press reports, a court sentenced two journalists from Lampung to nine months in jail for libeling Alzier Dianis Thabranie, the leader of the Golkar Party's Lampung chapter, in a story on vote-buying in Lampung during the 2004 presidential election.

Abdulla Hendropriyono, former chief of BIN, filed criminal defamation charges against Rachland Nashidik, program director for The Indonesian Human Rights Monitor and Usman Hamid, coordinator for The Commission for Disappearances and Victims of Violence. Both Nashidik and Hamid were prominent members on the government-established fact-finding team investigating the murder of human rights campaigner Munir (see section 1.a.). Hendropriyono said the two spread damaging rumors about him and defamed him during the course of the team's work. The police questioned both Nashidik and Hamid, but at year's end they remained free.

Akbar Tandjung, former DPR speaker, sued Retno Listyarti, a civics teacher at a senior high school, and publisher PT Erlangga for writing and publishing a textbook he considered libelous. The textbook used Akbar's 2003 graft trial (in which he was found innocent on appeal) to illustrate issues of transparency and the social safety net. Akbar also complained that the inclusion of the graft trial in the textbook had a psychological impact on one of his daughters, whose school used the book. In an out-of-court settlement, Listyarti agreed to revise the textbook.

On October 6, Chief Justice Bagir Manan directed judges across the country to fine, not imprison, journalists found guilty in criminal cases related to press disputes. However, he defended the application of the criminal code rather than the more liberal press law in certain cases.

Following the December 2004 tsunami, the government eased restrictions on domestic and international press access to tsunami-affected areas in Aceh, imposed under the civil emergency. The government ended the state of civil emergency in Aceh on May 18, lifting legal restrictions on the press, movement, assembly, and other civil rights. In practice, the ability of the TNI to limit information affected the ability of journalists to report freely, as did ad hoc interventions by local officials.

Although the government did not formally restrict foreign journalists from traveling to the provinces of Papua and West Irian Jaya, as a matter of practice the government expected journalists to request permission through the foreign ministry or, if abroad, through the nearest Indonesian embassy. The government approved some requests and denied others. Some journalists traveled to Papua without specific government permission. There were no reports of restrictions on journalists traveling to previous areas of conflict in Maluku, North Maluku, and in Sulawesi.

Journalists faced violence and intimidation from police, soldiers, government officials, rebels, thugs, students, and ordinary citizens. As of August, the Alliance of Independent Journalists (AJI) recorded at least 14 physical attacks against journalists as well as 15 nonphysical acts that included verbal threats and lawsuits. In August, I Wayan Puspa Negara, a member of the Badung District parliament, threatened to shoot Ashadi Iksa, a journalist for the *Nusa* daily, for an article titled "The New Provincial Government Asks for More Budget on Clothes up to Rp. 28 million." In May unknown persons repeatedly telephoned Heri, a journalist for the national news agency Antara, threatening to smash his head if he did not stop writing "awful news."

In 2003 persons linked to tycoon Tomy Winata entered *Tempo* magazine's headquarters in Jakarta and criticized an article that implied Winata stood to benefit from a fire that destroyed a Jakarta market. They assaulted *Tempo* journalists, including chief editor Bambang Harymurti, at the headquarters and later at a police station. *Tempo* lawyers reported the matter to the authorities and sued the assailants, but judges exonerated the group's leader. Winata's attorneys responded by initiating four lawsuits (two civil and two criminal), which free press activists asserted were attempts to intimidate the media. In September 2004 the Jakarta High Court overturned two district court decisions in civil suits against *Tempo*, finding in favor of *Tempo* and dismissing fines levied by the district court against the magazine. However, two days later, the Central Jakarta District Court found *Tempo* guilty of criminal libel and sentenced Bambang Harymurti to a year in prison; the court acquitted *Tempo* journalists Ahmad Taufik and Teuku Iskandar Ali. Human rights observers called the decision a blow to press freedom in the country and criticized the prosecutors' decision to use the criminal code on libel instead of the 1999 Press Law. Harymurti filed an appeal but the decision was upheld by the high court. At year's end, Harymurti remained free pending a Supreme Court decision on his second appeal.

On June 25, approximately two thousand persons calling themselves the Palu City Muslim community, held a protest against an opinion article entitled "Islam, A Failed Religion" written by Rus'an, a lecturer at Muhammadiyah University in Palu, which highlighted corruption in the country. In response the management of Central Sulawesi's biggest daily, *Radar Sulteng*, decided not to publish the newspaper for three days. The police, after questioning a number of witnesses including expert witnesses from a Central Sulawesi branch of the Indonesian Council of Ulemas (MUI), charged Rus'an with insulting Islam. However, MUI later withdrew the charges and authorities released him.

During the year the government took no legal action against any person responsible for crimes committed against journalists in 2004. In 2003 the Central Jakarta District Court ordered Jakarta Governor Sutiyoso to apologize to a reporter intimidated by a city public order officer who tried to prevent him from covering a 2002 eviction. Sutiyoso lost his appeal to a high court and twice appealed to the Supreme Court. The second appeal remained under consideration at year's end.

In 2004 the government implemented a broadcasting law, which included measures for licensing additional frequencies and establishing an impartial broadcasting commission. Since its inception, the Broadcasting Commission has been largely ineffectual due to an inadequate budget and legal uncertainty regarding its authority.

Despite incidents of violence and intimidation of the press, unity among journalists and their commitment to protect their colleagues continued to strengthen. Some members of the press also continued aggressive reporting on such issues as corruption, the Munir murder case, and environmental degradation. Regional media increasingly prospered. In addition, moderate Islamic publications continued to increase in number and popularity.

There were no government restrictions on the Internet or academic freedom.

The government-supervised Film Censorship Institute continued to censor domestic and imported movies for content deemed pornographic or religiously offensive. In December the government banned two films about East Timor from being shown at a Jakarta film festival. The film festival organizers quoted the government as stating that the films "might remind the people of an old wound."

By law, communist teachings cannot be disseminated or developed; however, on February 4, with no government interference, former president Abdurrahman Wahid launched the publication of an Indonesian-language version of Karl Marx's *Capital*.

On several occasions during the year an extremist group, the Islamic Defenders' Front (FPI), sought to limit freedom of expression through intimidation. In June FPI attempted to disrupt a beauty contest for transvestites. In September FPI intimidated an art curator into covering up art they found offensive. In both cases, the FPI filed charges of insulting Islam with the police.

A number of Muslim groups, led by FPI, also reported a popular local rock group to the police for blasphemy on April 26; the group allegedly used the word "Allah" in Arabic script on an album cover. The Muslim groups also complained that the band, during a concert, stepped on the word, which was painted on stage. The band changed the album cover. In June the lead singer for the same band received complaints from a Hindu organization for having a Hindu God on the cover of an album. The singer apologized and changed his album cover.

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

##### Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right; however, the government restricted this right in conflict areas. The law generally does not require permits for social, cultural, or religious gatherings; however, any gathering of five or more persons related to political, labor, or public policy requires police notification, and demonstrations require a permit.

Although the Papua Special Autonomy Law permits flying a flag symbolizing Papua's cultural identity, police arrested Philep Karma and Yusak Pakage for flying the Papuan Morning Star flag, identified with the armed separatist struggle (see section 2.a.) in December 2004. On December 1, police refused permission for a pro-separatist demonstration in Abepura, and prevented several hundred demonstrators from occupying the planned site of the aborted demonstration. On the same day, a student demonstration in Jayapura proceeded without incident.

During the year there were reports of police using excessive force in controlling demonstrations. On May 10, a court session in Jayapura trying Karma and Pakage ended in chaos when spectators lobbed stones into the court grounds, and police officers guarding the court fired warning shots. The ensuing violence injured dozens of persons, including 10 police officers. The national police chief asserted that the police had overreacted, and Jayapura police chief Son Ani and his subordinate Novly Pitooy were removed from their positions. Nine other lower-ranking officers were demoted and detained for human rights and procedural violations. On May 26, the Jayapura District Court sentenced Karma and Pakage to 15 and 10 years in jail respectively for treason.

In other instances police showed restraint in dealing with violent demonstrations. For example, in Central Lombok, on September 19, in a dispute between landowners and airport officials, several hundred farmers attacked police with rocks and arrows. The police responded with rubber bullets and other nonlethal crowd control measures. None of the demonstrators were seriously injured.

In Aceh, before the end of the civil emergency on May 18, some permits for gatherings were denied if the meetings were deemed political in nature. In April the civil authorities denied the Consortium for Assisting Refugees and the Displaced in Indonesia's request for a permit to hold a workshop on international standards for refugee care. The authorities did not give a reason for the denial.

Since the end of the civil emergency and especially after the August signature of the MOU, peaceful assemblies occurred frequently and without incident. As a result of the MOU, the authorities granted Muhammad Nazar, chairman of SIRA, amnesty and freed him on August 30. Authorities arrested Nazar in February 2003 for planning a public rally in Lhokseumawe, Aceh.

##### Freedom of Association

The law provides for freedom of association, and the government generally respected it in practice. The Communist Party was banned in 1966.

#### c. Freedom of Religion

The law provides for "all persons the right to worship according to his or her own religion or belief" and states that "the nation is based upon belief in one supreme God." The government generally respected the former provision, but only five major faiths--Islam, Protestantism, Catholicism, Hinduism, and Buddhism--received official recognition in the form of representation at the Ministry of Religious Affairs. Other religious groups were able to register with the government, but only with the Ministry of Home Affairs and only as social organizations. These

groups experienced official and social discrimination. The law does not recognize atheism, and in practical terms requires all persons to identify themselves with one of the five faiths acknowledged by the government.

The civil registration system continued to discriminate against members of minority religions. Civil registry officials refused to register the marriages or births of children of animists, Confucians, members of the Baha'i faith, and others because they did not belong to one of the five officially recognized faiths. According to the Hindu association Parisadha Hindu Dharma Indonesia, Hindus, particularly in North Lampung, Southeast Sulawesi, Kalimantan, and some areas in East Java, despite official recognition of their religion, sometimes had to travel some distance to register marriages or births because local officials could not or would not perform the registration. Persons whose religion was not one of the five officially recognized faiths as well as persons of Chinese descent had difficulty obtaining a KTP, which was necessary to register marriages, births, and divorces. Several NGOs and religious advocacy groups urged the government to delete the religion category from the KTPs (see section 1.f.).

Men and women of different religions experienced difficulties in marrying and in registering marriage. The government refused to register a marriage before a religious marriage ceremony had taken place. However, very few religious officials were willing to take part in a wedding involving a man and woman of different faiths. For this reason, some soon-to-be brides and grooms converted to their partner's religion. Others resorted to traveling overseas to wed. In July the Indonesian Council of Ulemas (MUI) issued an edict that reaffirmed its 1980 ban on marriages between persons of different faiths. MUI edicts are influential but do not have legal effect.

On September 1, a court sentenced three women to three years in prison each for proselytizing based on their inclusion of Muslim children albeit with parental permission in Christian Sunday school activities. On November 22, the three women lost their appeal, and at year's end an appeal to the Supreme Court was pending.

In November a foreign citizen and an Indonesian working on a dam project on Madura were arrested following accusations that they were trying to corrupt the Muslim community. At year's end possible charges were still pending.

During the year the government took no concrete steps to implement controversial provisions of the education law that require schools to provide religious instruction to students in their own faith.

As in previous years, some political parties advocated amending the constitution to adopt Shari'a on a nationwide basis, but most parliamentarians and the country's largest Muslim social organizations remained opposed to the proposal. On March 28, the third South Sulawesi Muslims Congress urged the provincial government to apply Shari'a throughout the province. However, as in previous years, the provincial government did not respond.

In Aceh Province, the government continued to implement Shari'a courts, which heard only cases involving Muslims and did not enforce the penal code but rather *qanuns*, decrees formulated by local governments. The qanuns covered issues such as "immoral behavior." For example, extramarital contact between a man and woman could be punishable by public lashings or a fine of up to \$555 (5.5 million rupiah). Other qanuns banned gambling and the production, distribution, or consumption of alcohol. A Muslim found guilty of consuming alcohol could receive 40 lashes. On August 26, authorities lashed two young unmarried couples 45 times in Takengon Public Square in Central Aceh for violating qanuns on immoral behavior and the consumption of alcohol while in their vehicle. The press reported that the two women fainted from the lashings. During the year a total of 52 persons were caned: 6 for being alone with persons of the opposite sex who were not blood relatives, 7 for consumption of alcohol, and 39 for gambling.

On May 20, 60 members of the Banda Aceh Shari'a office, supported by local police, enforced headscarf use by Muslim women in front of the provincial parliament and another government building. According to the newspaper *Serambi Indonesia*, hundreds of women were briefly detained and lectured on Shari'a.

In some municipalities outside of Aceh, local leaders also applied stricter Islamic practices. In Bulukumba Regency, South Sulawesi, two years after the implementation of Shari'a, the regent claimed that 100 percent of Muslim women wore headscarves. The law does not apply to non-Muslims and is not enforced in an area popular with tourists. In Padang, West Sumatra, the mayor instructed all Muslim women to wear a headscarf; the local authorities enforced this instruction.

Courts sentenced several persons to jail for insulting Islam. In August a court sentenced Muhammad Yusman Roy to two years in jail for praying in the Indonesian language, which Muslim *ulemas* (religious authorities) said tarnished the purity of Arabic-based Islam. In September an East Java court sentenced each of six drug and cancer treatment counselors to five years in jail and another to three years in jail for violating key precepts of Islam. A local MUI edict had characterized their rehabilitation center's teachings as heretical. Police arrested the counselors while they were trying to defend themselves from hundreds of persons who raided the center's headquarters.

As in previous years, during the Muslim fasting month of Ramadan, many local governments ordered either the closure or limited operating hours for various types of "entertainment" establishments. For instance, the municipal governments of Kendari, Medan, Palembang, and Pekanbaru ordered the closure of all discotheques, massage parlors, karaoke outlets, pubs, and bars during Ramadan. However, authorities said they would allow bars and karaoke outlets in hotels catering to foreign tourists to remain open. The Medan government ordered the closure of such establishments on December 24 and 25 in observance of Christmas. Enforcement of the orders varied.

#### Societal Abuses and Discrimination

There were frequent efforts to close unlicensed churches during the year. Through intimidation and sometimes force, FPI and the Alliance for Anti-Apostates shut down dozens of Protestant places of worship in West Java that lacked permits. Police did nothing to stop the closures and, in some cases, assisted in the closures. Many of the churches reopened later in the year.

On July 15, a mob under the banner of the "Indonesian Muslim Solidarity Group" attacked the Ahmadiyah Indonesia Congregation (JAI) compound in Bogor, West Java. Armed with stones and batons, the assailants damaged Ahmadiyah buildings and set fire to a women's dormitory, in spite of a heavy police presence. The attack followed an aborted July 9 attack on the same Ahmadiyah property by individuals associated with the FPI. The police made no arrest of perpetrators in either attack, and the Ahmadiyah compound remained sealed at year's end.

The perpetrators of the attacks justified their actions by referring to a religious edict (*fatwa*) issued in 1980 by the MUI that declared the Ahmadiyah to be "deviants" from Islam. The fatwa, which was renewed in August, has no official force of law. The violence sparked fears of possible attacks against Ahmadiyah members in other parts of the country. In Bandung, West Java, more than one thousand Ahmadiyah followers sought police protection to secure their two mosques in the Cikutra and Bojongloa areas. They also reduced their ritual activities at the mosques. Komnas HAM began an investigation of the JAI campus attacks.

On September 19, in Cianjur, West Java, a mob reportedly attacked and vandalized an Ahmadiyah mosque and private homes and cars belonging to Ahmadiyah members. Unlike the July attacks, however, the police reportedly arrested 45 suspects and were pursuing criminal charges against 12 alleged ringleaders. Shortly after the attack, local government officials in Cianjur Regency formally banned all Ahmadiyah activities purportedly to protect Ahmadiyah members from further attacks.

On October 21, in Central Sulawesi, a man on a motorcycle fired at a house being used for prayer meetings by a Christian congregation; the owner was injured.

Religiously motivated violence and vigilante acts in Central Sulawesi, Maluku, and North Maluku occurred less frequently than in previous years. However, Central Sulawesi continued to experience sporadic bombings, shootings, and other violence in spite of broad societal support for security restoration and reconciliation. On October 29, three teenage Christian schoolgirls were beheaded near Poso, Central Sulawesi. Days later, two teenage girls, one Muslim and one Christian, were shot and killed at a bus stop in Poso. That same week, a Palu-area university professor and his wife were shot and injured. On December 31, unknown persons bombed a Palu pork market killing 7 persons and injuring more than 50.

In March, despite an agreement by Muslim and Hindu leaders in Bali calling on their followers to respect both the Hindu's Nyepi Day (seclusion day) and the Muslim Friday prayer, some villages prohibited Muslims from leaving their homes to perform Friday prayer in mosques, threatening to fine them if they did so. The local MUI in Jimbaran called on Muslims to move out of the villages before Friday so they could perform their Friday prayers.

The indigenous Jewish population is small. *Sabili*, a radical Islamic publication and the country's second largest magazine by circulation, published articles with anti-Semitic statements and themes.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

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

The constitution allows the government to prevent persons from entering or leaving the country, and sometimes the government restricted freedom of movement. The Law on Overcoming Dangerous Situations gives military forces broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; however, the government did not use these powers.

The government continued to restrict freedom of movement for foreigners through a system of "travel letters," required for Papua. Enforcement was inconsistent.

In May 2003 then-president Megawati issued a decree ending martial law in Aceh and establishing a state of civil emergency. The decree returned overall government authority for the province to the governor, but the Provincial Civil Emergency Administration (PDSD) maintained authority to issue emergency measures to control travel, trade, transport, and other civilian activities. The government formally ended the state of civil emergency and the PSDS on May 18. Following the signing of the MOU, authorities removed all non-locally based TNI units and reduce the TNI's role to protecting against external threats.

The government maintained controls on the movement of residents in Aceh through the use of national identity cards specific to Aceh. These cards required the signatures of the holder's local military commander, police chief, and village head. Acehnese who wished to travel or leave the province had to show these cards at security checkpoints along main highways. Failure to produce the card was cause for arrest. In practice, residents could easily obtain the cards, and there was no evidence that the policy resulted in restriction of movement. In Aceh, those outside Banda Aceh also had to obtain a travel letter from police describing the purpose and length of trip and also naming the persons the traveler would meet. Under the MOU, travel letters were no longer required, and national identity cards specific to Aceh were no longer official. However, in practice the government did not issue standard identity cards, and Acehnese continued to use identity cards specific to Aceh at year's end.

Relations between Madurese and indigenous Dayaks remained poor. In Central Kalimantan, ethnic violence in 2001 prompted approximately 130 thousand ethnic Madurese migrants to leave, mainly going to Madura and East Java. According to Oxfam and the UN Office for Coordination of Humanitarian Affairs, between 30 thousand to 57 thousand Madurese have returned to Central Kalimantan. A Central Kalimantan government regulation stipulates that returning Madurese be: able to live side by side in peace and harmony with community members; be recognized and received by the indigenous population as well as local community members; and obey the values, customs, and traditions of the local culture. The regulation also requires returnees to register with the local government, but only those with identity cards, a house, and a permanent job are qualified to do so. The West Kalimantan city of Sambas remained effectively inaccessible to its

former Madurese residents.

The government prevented at least 600 persons from leaving the country during the year. The AGO and the high prosecutor's office prevented most of these departures. Some of those barred from leaving were delinquent taxpayers, convicted or indicted persons, and persons otherwise involved in legal disputes.

In June 2004 the government expelled Sidney Jones, country director for the international NGO International Crisis Group (ICG). In July Jones returned and resumed her work. She subsequently left the country voluntarily and was briefly barred from returning in November, but this restriction was lifted after a few days.

In January, a month after the tsunami, authorities in Aceh briefly detained or asked to leave at least five foreign journalists. On January 7, soldiers asked Martin Chulov and Renee Nowytager of *The Australian* to leave. On January 23, authorities said freelance journalist William Nessen had violated a ban imposed on him in August 2003 and expelled him from Aceh. In March the government barred Dr. Erward Aspinall, a lecturer at Sydney University and an expert on the county, from entering the country. His name was on a blacklist. On September 8, an antiterror police unit in Maluku arrested Rohan Kumar Gunaratna, a Singapore-based professor and expert on terrorism, for failing to show a document allowing him to carry out research on terrorist cells in Maluku Province. Authorities charged Gunaratna with violating immigration law and deported him.

The constitution prohibits forced exile, and the government did not use it.

#### Internally Displaced Persons

The National Coordinating Board for Disaster Management reported that there were 977,395 internally displaced persons (IDPs) in the country, 561,478 of whom were in Aceh, almost all the result of the December 2004 tsunami. Some of the Aceh IDPs lived in emergency shelters, while others stayed with host families or were integrated into local communities. The government dealt with many aspects of crisis but continued to rely on international organizations and donors to assist with most IDP needs. IDPs had three options: return to their place of origin, start anew in their current location with the government's assistance, or relocate to another part of Aceh if return to their place of origin was impossible.

#### Protection of Refugees

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. However, in practice, there were no reports of the forced return of persons to a country where they feared persecution. The government cooperated with the UN High Commissioner on Refugees (UNHCR), which maintained an office in Jakarta, for assisting refugees and asylum seekers. At year's end, there were 89 UN-recognized refugees and 58 asylum seekers living in the country. Some were applicants and others were dependents. Most were from Iraq, Afghanistan, or Sri Lanka. During the year the UNHCR shifted its primary focus from assisting refugees and asylum seekers to tsunami relief. However, it did help resettle 75 refugees.

The above figures did not include approximately 28 thousand former refugees from East Timor who resided in West Timor at year's end, according to the UNHCR and the National Coordinating Board for Disaster and IDPs Management Secretariat. In 2003 the government and UNHCR stated that the remaining East Timorese in West Timor would no longer be considered refugees, and on December 31, UNHCR ended its six-year assistance program in West Timor.

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

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

The constitution provides for national elections every five years. The security forces lost their appointed DPR seats in October 2004 with the inauguration of the new legislature. DPR members automatically are members of the People's Consultative Assembly (MPR), which until October 2004 included regional and government appointed representatives. In October 2004 the MPR became a fully elected body consisting of the 550 DPR members (50 seats were added pursuant to a law adopted in 2003) and the 128 members of the House of Regional Representatives (DPD).

#### Elections and Political Participation

Domestic and international observers monitored peaceful, first-ever, direct local elections to choose provincial- and district-level executives beginning in June. By year's end the government had held a total of 149 local elections: 7 governors, 26 mayors, and 116 regents. Observers generally perceived the local elections as free and fair, and, with a few exceptions, without incident affecting the outcome.

Most instances of violence involved supporters of losing candidates attacking local election offices. A riot broke out in Kaur District in Bengkulu Province, where supporters of a losing candidate burned down government and public buildings. In Depok, West Java, a controversial West Java court ruling overturned the mayoral election results. An inquiry into the court's decision found indications of impropriety and recommended sanctions against the judges. In December the Supreme Court overruled the West Java High Court's decision. The losing party planned a further appeal, arguing that according to the election law the high court decision should be final. At year's end a new mayor had not been inaugurated.

In October 2004 President Yudhoyono became the country's first directly elected president. Domestic and international observers monitored the legislative and presidential elections, organized by an independent election commission, and considered the elections free and fair. The national elections featured high voter turnouts, an absence of any notable violence, and broad public acceptance of the results.

All adult citizens are eligible to vote except convicts serving a sentence of five years or more, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice. Former members of the banned Indonesian Communist Party are allowed to vote, and, following a November 2004 Constitutional Court ruling, they may run for office.

There were no legal restrictions on the role of women in politics. A woman, Megawati Soekarnoputri, served as president from July 2001 until October 2004. During the year women held 4 of 36 cabinet seats. The current election law includes a nonbinding call for parties to select women for at least 30 percent of the candidate slots on their party lists. In the 2004 elections, 61 women were elected to the 550-seat DPR, an increase from 1999, when 44 women held seats in the 500-seat DPR. In the DPD, women were 27 of the 128 members. Women won two district chief positions in the local elections.

There were no legal restrictions on the role of minorities in politics. There were no official statistics on the ethnic backgrounds of legislators in the DPR. President Yudhoyono's cabinet consisted of a plurality of Javanese, with others being of Sudanese, Bugis, Batak, Acehnese, Papuan, Balinese, Arab, or of Chinese heritage.

In Papua the government moved to implement the Special Autonomy Law, which, among other things, provides for a portion of the revenues raised from extractive industries in the territory to be returned to the provincial and regency governments for use in health, education, and infrastructure projects intended to benefit the indigenous population. The Special Autonomy Law also provides for formation of a Papuan People's Assembly (Majelis Masyarakat Papua, MRP) that would provide input into policies, legislation, and appointments affecting indigenous Papuans, and which began work on November 11. Nevertheless, significant discontent with the central government's policies persisted. Thousands of Papuans participated in antigovernment demonstrations held on August 12.

The creation by the central government of a new province, West Irian Jaya, which was carved out of Papua under controversial political and legal circumstances remained contentious. A constitutional court ruling in November 2004 held that while West Irian Jaya's formation was legally invalid, it could continue to function since its institutions were already in place. On November 24, the central government and provincial authorities reportedly agreed that the two provinces would function as a single cultural, economic, and social entity, and that their partition would be strictly administrative; however, at year's end the matter remained under discussion among the central and provincial governments and the MRP.

#### Government Corruption and Transparency

There was a widespread domestic and international perception that corruption was a part of daily life. In his first 100 days in office, the president stated that eradicating corruption was one of his goals, and he subsequently established the Corruption Eradication Commission (KPK) with a broad investigative mandate. The AGO prioritized high-profile corruption cases. During the year the government prosecuted corruption cases against two governors, including Aceh Governor Abdullah Puteh, who was convicted and sentenced to 10-years' imprisonment. The government also prosecuted and convicted four members of the National Electoral Commission (KPU) including Chairman Nazaruddin Sjamsuddin and Commissioner Mulyana Kusumah, for corrupt practices related to KPU procurements. The government also began prosecution of former minister of religion Said Agil Hussein Munawar for embezzlement and arrested staff members of the Supreme Court for accepting bribes (see section 1.e.).

With the exception of Aceh, the AJI reported no problems obtaining unclassified public documents from the government.

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

The government met with local NGOs, responded to their inquiries and took some actions in response to NGO concerns. When prominent human rights activist Munir was murdered in 2004, the president met with a coalition of persons concerned about Munir and formed a fact-finding team (TPF) consisting of leading members of the NGO community, prosecutors, and a senior police officer. However, at year's end, the president had not released the TPF's report, which, according to press reports, called for the investigation of former and active officials of the State Intelligence Agency in connection with Munir's death (see section 1.a.). The president also met with religious organizations to discuss their concern over forced church closings, and instructed the minister of religion to review the joint-ministerial decree that requires houses of worship to obtain community approval before being built (see section 2.c.). At year's end a revised joint-ministerial decree had not been released.

Domestic human rights organizations reported being subjected to monitoring, harassment, and interference by the government; however, they actively advocated improvements to the government's human rights performance. Before the verdict in the Pollycarpus trial (see section 1.a.), Komnas HAM reported that since 2000, 14 human rights activists had been killed, and no perpetrators had been brought to justice. There were no reports of any human rights activists killed during the year.

A prominent activist on the TPF investigating Munir's death, as well as Munir's wife, reported receiving numerous, anonymous death threats.

NGOs in Papua reported widespread monitoring by intelligence officials as well as threats and intimidation. Activists reported that intelligence officers took their pictures surreptitiously and sometimes questioned their friends and family members regarding their whereabouts and activities.

In Aceh there was a large increase in the number of international and domestic NGOs to help with the relief and reconstruction following the

December 2004 earthquake and tsunami. There were no reports of government interference; however, most international and local NGOs reported they did not conduct human rights work in Aceh for fear of losing their mandate to be in the region.

The government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard with suspicion foreign human rights organizations, particularly those operating in conflict areas. Government monitoring of foreigners was apparent in conflict areas. Some domestic human rights organizations expressed concern about the possible negative consequences of contacting foreigners.

A number of government agencies and affiliated bodies addressed human rights problems, including the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, and Komnas HAM. However, in 2003, Komnas HAM's efforts to expose human rights violations and bring perpetrators to account were undermined by a number of court decisions regarding its jurisdiction or authority. For example, in June 2003 a Jakarta court refused to subpoena former and active military officers who had ignored Komnas HAM summonses to face questioning about 1998 riots, which claimed more than 1,200 lives. In June the TNI stated it could not cooperate with attempts by Komnas HAM to summon retired and active-duty generals to answer questions about the abduction of prodemocracy activists between 1997 and 1998. The TNI insisted that Komnas HAM must first obtain permission from the DPR before it could summon retired and active-duty generals for questioning (see section 1.b.). By law severe human rights violations that occurred before 2000 could be investigated only by an ad hoc human rights court, not Komnas HAM. Such a court could be formed only at the suggestion of the DPR, but for the DPR to know enough about an incident to approve the formation of a court, a thorough investigation was necessary. The resulting stalemate continued to block progress toward accountability.

During the year the government formed a Truth and Reconciliation Commission and, in cooperation with East Timor, a bilateral Truth and Friendship Commission (see section 1.e.).

## Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution does not explicitly prohibit discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. However, in practice, the government failed to defend these rights adequately.

### Women

The law prohibits domestic abuse and other forms of violence against women. However, rape and domestic violence were problems.

Violence against women remained poorly documented. Nationwide figures were unavailable. The NGO Mitra Perempuan-affiliated Women's Crisis Centers recorded 329 cases in Jakarta, Bogor, Tangerang, and Bekasi combined, and the local press reported that violence against women continued to increase. In East Java Province incidents of violence against women increased both in number and severity. The East Java Integrated Service Center reported 107 cases of violence against women, whereas the Prodemocracy Women's Coalition reported 63. Most East Java NGOs working on women and children's issues believed the real figure was far higher, noting the tendency of many victims to keep silent. During the year three cases were investigated using the 2004 Domestic Violence Act; however, there were no prosecutions by year's end. Two types of crisis centers were available for abused women: government-run centers in hospitals and NGO centers in the community.

Rape was a problem. Although it is punishable by 4 to 12 years in jail, and the government jailed perpetrators for rape and attempted rape, most convicted rapists were sentenced to the minimum or less. Reliable nationwide statistics were unavailable. The legal definition of rape is narrow and excludes some acts that would commonly be treated as rape in other countries.

Rapes by members of the security forces occurred in Aceh. Human rights activists expressed concern that rapes were underreported in the province, partly because of reluctance by victims to come forward. SIRA accused military personnel of committing four rapes in Aceh, but no cases of rape or sexual harassment had been reported to the authorities. During the year the TNI did not prosecute any of its personnel for rape.

Nationwide, the police operated more than 200 "special crisis rooms" or "women's desks" where female officers received criminal reports from women and child victims of sexual assault and trafficking and where victims found temporary shelter. During the year the police opened a major trafficking victims' recovery center in a police hospital in Jakarta and a similar center in Surabaya.

State policy and the law state that women have the same rights, obligations, and opportunities as men. However, the law also states that women's participation in the development process must not conflict with their role in improving family welfare and the education of the younger generation. Marriage law designates the man as the head of the family. Women in many regions of the country, particularly in Papua, complained about differential treatment based on gender.

The legal differentiation between a woman and a girl was not clear. The law sets the minimum marriageable age at 16 for a woman (and 19 for a man), but the Child Protection Law states that persons under age 18 are children. A girl who marries has adult legal status. Girls frequently marry before reaching the age of 16, particularly in rural areas.

Female genital mutilation (FGM), also known as female circumcision, was practiced in some parts of the country, including West Java. Complications reportedly were minimal. Two types of persons, midwives and local traditional practitioners, performed the procedure. Researchers said the midwives' procedure involved the tearing, cutting, or piercing of part of the genitals but not the removal of tissue. Most of the local traditional practitioners, on the other hand, said that they customarily removed tissue, but the extent of this removal remained unclear. Similarly, it was unclear whether the removed tissue was from the clitoris, labia minora, or elsewhere. Some NGO activists

dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic.

Prostitution is not specifically addressed in the law. However, many officials interpret "crimes against decency/morality" to apply to prostitution. Child prostitution is illegal. While contrary to societal and religious norms, prostitution was widespread and largely tolerated. Security forces reportedly participated in the running of brothels or protection rackets, which shielded brothels from prosecution. International sex tourism took place, especially on the islands of Batam and Karimun, both near Singapore.

Although it is not explicitly mentioned, sexual harassment is against the law and is actionable under the Criminal Code. In 2004 the State Ministry of Women's Empowerment said that 90 percent of women and 25 percent of men have been victims of sexual harassment in the workplace.

Divorce is open to both men and women. Muslims who sought divorce generally turned to the Shari'a-based family court system as a faster and cheaper alternative to the national court system. Non-Muslims obtained divorces through the national court system. Due to prejudicial attitudes, women often faced a heavier evidentiary burden than men, especially in the Shari'a-based family court system. Although both Islamic and national courts may award alimony, many divorcees received no alimony, since there was no system to enforce such payments. Men and women both keep the separate property they owned before marriage. If there is no prenuptial agreement, joint property is divided equally. The law requires a woman who has become divorced to wait a certain period of time before remarrying; a man can remarry immediately.

The law stipulates that a child's citizenship is derived solely from the father. Children of citizen mothers and foreign fathers are considered foreigners and must have visas to remain in the country until age 18, when they can apply for citizenship. These children are prohibited from attending public schools. In cases in which a citizen mother lived abroad with her foreign husband, divorce could involve child custody problems. The children of foreign women married to citizen men also faced difficulties. A foreign woman married to a citizen can obtain citizenship after one year.

During the year the government continued to implement Shari'a in Aceh (see section 2.c.). The most visible impact on women's rights appeared to be the enforcement of dress codes. After issuing two written warnings to women in violation of the dress code, authorities referred the matter to a Shari'a court. In Banda Aceh, police briefly detained improperly dressed women in the Shari'a enforcement office, where the women were lectured on appropriate attire. Local governments and groups in other areas also undertook campaigns to promote conformance by women with the precepts of Shari'a. Some women told reporters that they felt humiliated when detained for dress code violations.

Women faced discrimination in the workplace, both in hiring and in gaining fair compensation. In 2003 the International Labor Organization's (ILO) Jakarta office reported that on average, women's earnings were 68 percent of that of men. According to the government, 41 percent of all civil servants were women but women accounted for only 7 percent of senior government officials.

Some activists said that in manufacturing, employers relegated women to lower-paying, lower-level jobs. Many female factory workers were hired as day laborers instead of full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. According to the government's central statistics bureau, during the year the unemployment rate was higher for men than for women. By law, if a husband and wife both worked for a government agency, the couple's head-of-household allowance was given to the husband.

A number of organizations promoted women's rights or otherwise addressed women's issues during the year including Solidaritas Perempuan, Mitra Perempuan, LBH-Apik, and the International Catholic Migration Commission (ICMC). During the year the Ministry of Women's Empowerment worked with the DPR to finalize an antitrafficking bill. The ministry also worked on issues of child protection, including trafficking.

## Children

The government stated its commitment to children's rights, education, and welfare, but it devoted insufficient resources to fulfill that commitment. In practice, most schools were not free of charge, and poverty put education out of the reach of many children. Child labor and sexual abuse were serious problems. Although girls and boys ostensibly received equal educational opportunities, boys were more likely to finish school. In 2003 the leader of the National Commission for Child Protection identified the most pressing problems related to the country's youth as child labor, child trafficking, child prostitution, street children, children in conflict areas, and undernourished children. The Child Protection Act addresses economic and sexual exploitation of children as well as adoption, guardianship, and other problems; however, some provincial governments did not enforce its provisions.

Unlike last year there were no reports of children being used as human shields or as combatants; however, one child was killed in a clash in Aceh (see section 1.a.).

By law, children are required to attend six years of elementary school and three years of junior high school; however, in practice, the government did not enforce these requirements. According to the government's 2004 National Socio-Economic Household Survey, school enrollment rates were 96.1 percent for children ages 7 to 12, 79.2 percent for children ages 13 to 15, and 49.8 percent for children ages 16 to 18.

Monthly fees for public schools varied from province to province and were based on average incomes. Some parents continued to find it difficult to send their children to school. Tuition, transportation, and school materials, could cost a family between \$400 and \$700 (4 million to 7 million rupiah) per year for each primary and secondary student. In June the ILO conducted a limited child labor survey in areas within five

provinces (North Sumatra, East Kalimantan, West Java, East Java and South Sulawesi), which revealed that one in five school-age children from low-income families had no access to education and experienced various kinds of exploitation at work--both in the formal and informal sectors. The survey also found that of 2,438 school-age children below 15 years of age, 19 percent were not attending school. It was unclear how many children were forced to leave school to help support their families. In some remote areas of East Java, lack of nearby school locations contributed to drop out rates as high as 50 percent and led children to seek work. In some areas, parents and watchdog groups complained that corruption among public servants severely undermined the quality of education. During the year the tsunami and the lingering effects of conflicts disrupted the education of some children.

Many children grew up in unhealthy circumstances. Malnutrition remained a serious problem. The country's infant mortality rate remained high. According to a demographic and health survey published in December 2003, there were 35 deaths for every 1 thousand live births. There was improvement in under-five mortality, but a lack of improvement in infant mortality led the government to increase its focus on newborn healthcare.

A severe drought exacerbated malnutrition in East Nusa Tenggara Province this year. The total number of children thought to be suffering from malnutrition in East Nusa Tenggara was more than 12 thousand, and at least 59 infants died of acute malnutrition during the year.

Child abuse is prohibited by law, but government efforts to combat it generally have been slow and ineffective. NGOs reported that it continued to take excessively long to bring a child rape case to court and that mechanisms for reporting and dealing with child abuse were vague.

The East Java Children's Protection Agency recorded 389 cases of violence against children in East Java during the year. The East Java police recorded 137 cases of violence against children. In most cases, the offender was a parent of the victim.

Commercial sexual exploitation of children continued to be a serious problem. The number of child prostitutes in the country was unclear; however, a 2004 ILO assessment estimated there were approximately 21 thousand child prostitutes on the island of Java. In 2003 a team of NGO and government health officials visited a prostitution complex in Riau Province and estimated that 30 to 40 percent of the 365 female sex workers there were under 18 years of age. Many teenage girls were forced into or found themselves caught in debt bondage. At times law enforcement officials treated child sex workers as criminals rather than victims. Women's rights activists and religious groups accused government officials, particularly police and soldiers, of operating or protecting brothels that employed underage prostitutes. Corrupt civil servants issued identity cards to underage girls, facilitating entry into the sex trade. According to official East Java government statistics, there were approximately 4 thousand child prostitutes in East Java, 30 percent of the total number of recorded prostitutes; there were approximately 3 thousand child prostitutes in Central Java; and 194 in the city of Yogyakarta. There also were reports of sexual exploitation of boys. NGOs reported long-active pedophile rings operating in Bali, and authorities arrested and tried at least one man, a French national, for pedophilia there.

During the year there were cases in which employment brokers paid parents advances of future salaries to be earned by their daughters. The child was required to repay the employment brokers. Researchers described a "culture of prostitution" in some parts of the country, where parents encouraged their daughters to work as big-city prostitutes and send the proceeds home.

NGO observers said many girls were forced into prostitution after failed marriages they had entered into when they were 10 to 14 years of age. There was no obvious violation of the law, because their paperwork identified them as adults due to the fact they were once married.

Child labor was a problem. The Ministry of Manpower and Transmigration reported 4.5 million child workers in its national labor survey; however, in 2003 the ILO reported that 8 million children under 18 were doing the work of adults (see section 6.d.).

During the year all district courts had a juvenile court.

In East Java, local NGOs reported that the government paid little attention to the rights of juvenile offenders. In Surabaya the government held juvenile offenders in the same prison as adult criminals during trial. There was only one prison for juveniles in East Java, located in Blitar. As of July, there were 107 juveniles in the Blitar prison, the majority from Malang and Blitar. Most juveniles from Surabaya are remanded to Surabaya-area adult facilities. Juveniles sometimes experienced abuse while in detention. In July local newspapers reported that four juveniles in the Rungkut area of Surabaya City claimed that police injured their knees and legs during interrogation conducted in the local police office. The head of the local police denied the accusation.

According to the Ministry of Social Affairs, there were 46,800 street children across 21 provinces. Substantial numbers of street children were apparent in Jakarta and the provinces of East Java, West Java, North Sumatra, and South Sulawesi. Surabaya, in East Java, was home to approximately 8 thousand street children, many reportedly susceptible to sexual abuse and violence. Approximately 40 shelters in the province provided services to such children. The Jakarta City government opened a shelter in 2004 with the capacity for approximately 200 children. The government continued to fund other shelters administered by local NGOs and paid for the education of some street children.

A number of NGOs promoted children's rights, including Child Advocacy Network, National Commission on Child Protection, Center for Study and Child Protection, and Foundation for Indonesian Child Welfare.

#### Trafficking in Persons

Trafficking in persons is illegal under the law; however, the law is not comprehensive in its definition of trafficking. During the year persons were trafficked to, from, and within the country for the purposes of prostitution and forced labor, including instances of debt bondage. Internal trafficking was a significant problem.

During the year the government continued to implement the 2002-07 National Action Plan to counter trafficking of women and children. The plan identifies specific roles for the government and civil society at national and local levels and included goals for lawmaking and law enforcement. The Child Protection Act prohibits economic and sexual exploitation of children and also child trafficking. The act specifies severe criminal penalties and jail terms for persons who violate children's rights, including by trafficking in persons. The government, with the help of NGOs, conducted public education efforts on trafficking. Several provincial and district governments adopted new antitrafficking regulations and plans.

The criminal code lacks an adequate legal definition of trafficking in persons. The Solidarity Center and the ICMC identified laws that could be applied in cases of trafficking and related offenses. The penal code prohibits trade in women and male minors but is silent on female minors. The Child Protection Act provides for prison sentences of 3 to 15 years plus fines for child traffickers. In many cases involving underage victims, police and prosecutors used the Child Protection Act, a change from previous reliance on the penal code with its weaker sentencing guidelines. Prior to 2004 judges rarely sentenced traffickers to more than three years in prison; however, During the year judges imposed heavier sentences on child traffickers, with some convictions resulting in five- or six-year jail terms.

Reliable figures were not available on the number of persons trafficked. A study by the Solidarity Center and ICMC estimated between 2.4 and 3.7 million women and children worked in the vulnerable categories of migrant workers, sex workers, and child domestic workers (see section 5, Children). Within these categories, the estimated total number of children ranged from 254 thousand to 422 thousand. These were not estimates of victims but rather of women and children vulnerable to trafficking.

According to the foreign labor federation-financed Center for International Labor Solidarity, hundreds of Burmese fishermen, apparently forced to work on Thai fishing boats, either escaped or were abandoned in Tual, a small island in Maluku Province, where they lived in difficult conditions. In 2004 immigration officials forcibly repatriated a number of Burmese fishermen to Thailand via foreign fishing vessels. During the year the Burmese Seafarers Union estimated that there were still more than 100 Burmese seafarers living near Tual but did not anticipate further repatriations.

During the year the government, NGOs, and the media reported that women were trafficked to Malaysia, Japan, the Middle East (including Saudi Arabia and Kuwait), Taiwan, Hong Kong, Singapore, and other destinations. Malaysia was the destination for the greatest number of credibly documented cases of female trafficking victims. Women possibly trafficked to Indonesia included foreign prostitutes from China, Thailand, Eastern Europe, and Central Asia.

During 2004 police investigated 141 suspected traffickers, while prosecutors tried 51 cases. Courts convicted at least 45 suspects, an increase from 25 in 2003. The average jail sentence for convicted traffickers increased from 2.5 years to 3.2 years, while the average sentence for traffickers convicted under the Child Protection Act reached 5.3 years.

Lack of evidence, insufficient laws, low awareness of trafficking, and corruption were the main obstacles in prosecuting trafficking cases. For example, in December 2004, local police arrested six persons in a brothel in Semarang, Central Java after receiving reports from alleged victims of trafficking. However, the suspects were released due to alleged lack of evidence.

During the year the police and immigration officials launched operations to reduce the number of foreign prostitutes. On August 24, the Jakarta Police apprehended 68 foreign sex workers in raids on nightclubs, saunas, and beauty salons. The 68 were subsequently deported.

On February 26, North Surabaya police arrested a suspected trafficker after receiving a report from the alleged victim who escaped from a Surabaya brothel. A Surabaya court sentenced the trafficker, Radji, to a few months in jail. On March 15, in Probolinggo, East Java police arrested the suspected head of trafficking syndicate that allegedly had sold six children into prostitution in Surabaya; this case remained under investigation. In April East Java police arrested three persons suspected as traffickers in the Bondowoso area. Four girls were reported as their victims.

The Singkawang District of West Kalimantan remained well known as an area from which poor, ethnic Chinese women and teenage girls between the ages of 14 and 20 were recruited as "mail order" brides for men, primarily in Taiwan but also in Hong Kong and Singapore. In some cases the women were trafficked for sex work and slave-like servitude.

In many cases traffickers recruited girls and women under false pretenses. One tactic was to offer young women in rural areas jobs as waitresses or hotel employees in distant regions, including island resorts. After the new recruits arrived and incurred debts to their recruiters, they learned that they had been hired as prostitutes. In October Jakarta police arrested 2 persons for duping at least 51 women with offers to work in Japan as "cultural performers." Once in Japan, the women were exploited as prostitutes. At year's end the two suspects remained in custody awaiting trial.

Many victims became vulnerable to trafficking during the process of becoming migrant workers. Many unauthorized recruiting agents operated throughout the country and were involved in trafficking to various degrees, and some government-licensed recruiting agents also were implicated in trafficking. Recruiting agents often charged exorbitant fees leading to debt bondage and recruited persons to work illegally overseas, which increased the workers' vulnerability to trafficking and other abuses.

The basic three-month course that all police officers received did not include training on counter-trafficking in persons. During the year international agencies continued to provide police with specific counter-trafficking training. Trafficking falls under the purview of the Criminal Investigation Department (CID). In 2003 the police established a separate anti-trafficking unit within CID with operational and coordinating responsibilities.

In 2004 the national police headquarters issued instructions to district police chiefs to break up trafficking rings, assist victims, and report

cases to national headquarters.

Credible sources noted that individual security force members were involved in setting up and protecting brothels. Traffickers and brothel owners reportedly paid protection money to security force members. An NGO survey of trafficking in Papua concluded that military members operated or protected brothels that housed trafficking victims. Apart from police and soldiers, some government officials were complicit in trafficking, particularly in the production of false documents. The prevalence and ease of obtaining fraudulent national identity cards, which could document children as adults, contributed to the trafficking problem. Within society and the government, there was continued reluctance to acknowledge that prostitution was a major problem.

Domestic NGOs, with international support, led efforts to monitor and prevent trafficking, frequently in coordination with government agencies. These NGOs included the Consortium for Indonesian Migrant Workers Advocacy, LBH-Apik, Women's Aid and Protection Group, Women's Coalition (Koalisi Perempuan), and Solidaritas Perempuan.

In January the government reacted swiftly to rumors of trafficking of children orphaned or separated due to the December 2004 earthquake and tsunami in Aceh Province. The government restricted the travel of Acehese minors out of Aceh or abroad and posted police monitors at points of exit. The rumors proved almost entirely unfounded, and few cases of trafficking victims in Aceh emerged in the months following the disaster. NGOs reported some cases of Acehese women trafficked to a neighboring country later in the year.

National- and local-level assistance to trafficking victims increased compared with previous years but remained small in comparison with the scope of the problem. In general government assistance was modest and focused on citizens trafficked abroad, while domestic assistance was minimal. Over the year the government and community groups established a number of new shelters in Dumai, Riau Province, and in West Kalimantan Province. The police operated more than 200 women's desks, units established to help women and children who fall victim to violence including trafficking. The women's desks provided temporary shelter, special police handling, and some legal services for victims. The women's desks often cooperated with local NGOs to provide medical and psychological services and longer-term shelter. However, distrust of police discouraged some victims from using these desks.

The government's policy is to "treat persons who are trafficked not as criminals but as victims who need help and protection." During the year the People's Welfare Coordinating Ministry and the Ministry of Women's Empowerment reinforced this policy in public settings and training programs for police and other officials. However, local government and police practice varied, particularly in the lower ranks of law enforcement agencies. Local governments, exercising greater authority under the country's decentralization program, sometimes enacted laws or regulations that tended to treat trafficked sex workers as criminals, contrary to national policy. In many instances, government officials and police actively protected and assisted victims. In other cases, police treated victims such as trafficked prostitutes as criminals, subjected them to detention, and took advantage of their vulnerability to demand bribes and sexual services. Police and immigration officials periodically rounded up foreign prostitutes and quickly deported them without any reported screening for potential trafficking victims. The media and lower-level officials, including police, often failed to protect victims' identities and commonly provided victims' names to the public.

The government encouraged victims to assist in the investigation and prosecution of traffickers, but victims frequently were reluctant or refused to provide testimony due to shame and fear of retribution against themselves or their families.

#### Persons with Disabilities

The government classified persons with disabilities into four categories: blind, deaf, mentally disabled, and physically disabled. The constitution requires the government to provide them with care; however, "care" is not defined, and the provision of education to children with disabilities never was inferred from the requirement. The law also mandates accessibility to public facilities for persons with disabilities; however, the government did not enforce this provision. Few buildings and virtually no public transportation facilities provided such accessibility. The law requires companies that employ more than 100 workers to set aside 1 percent of their positions for persons with disabilities. However, the government did not enforce the law, and persons with disabilities faced considerable discrimination.

Recent statistics on the number of persons with disabilities were not available. In 2004 the World Health Organization estimated that 10 percent of the population, or approximately 20 million persons, had disabilities.

In urban areas only a few city buses offered wheelchair access, and many of those have had their hydraulic lifts vandalized, rendering them unusable.

In 2003 the government stated the country was home to 1.3 million children with disabilities, but only 50 thousand of them attended school. The actual number of children with disabilities was believed to be much higher. The law provides children with disabilities with the right to an education and rehabilitative treatment. A government official alleged that many parents chose to keep children with disabilities at home; however, many schools refused to accommodate such children, stating they lacked the resources to do so. According to the government, there were 1,234 schools dedicated to educating children with disabilities; 960 of them were run privately. Some young persons with disabilities resorted to begging for a living.

Human rights activists in Surabaya reported that discrimination against persons with disabilities existed in the employment and education sectors. For example, in November 2004 the Surabaya city government refused a civil service candidate charging that she did not fulfill the health requirement. In May the Surabaya Administrative Court ruled in her favor. City officials appealed to the Supreme Court, and at year's end the appeal was pending.

#### National/Racial/Ethnic Minorities

The government officially promotes racial and ethnic tolerance. Ethnic Chinese accounted for approximately 3 percent of the population, by far the largest nonindigenous minority group, and played a major role in the economy. Instances of discrimination and harassment of ethnic Chinese declined compared with previous years. Recent reforms increased religious and cultural freedoms. However, some ethnic Chinese noted that public servants still discriminated in issuing marriage licenses and in other services and often demanded bribes or a citizenship certificate, although such certificates were no longer legally required. In 2004 an attorney advocate for the rights of ethnic Chinese noted that more than 60 articles of law, regulation, or decree were in effect that discriminated against ethnic Chinese citizens. NGOs such as the Indonesia Anti-Discrimination Movement urged the government to revoke these articles.

There were no reports of overt discrimination against Acehnese outside the province. However, some Acehnese reported that they faced extra scrutiny when trying to leave the country and resented having a different identity card. The MOU signed on August 15 (see section 1.a.) included a provision to issue Acehnese conventional identity cards by April 2006.

#### Indigenous People

The government views all citizens as "indigenous," with the exception of ethnic Chinese; however, it recognizes the existence of several "isolated communities" and their right to participate fully in political and social life. These communities include the myriad Dayak tribes of Kalimantan, families living as sea nomads, and the 312 officially recognized indigenous groups in Papua. During the year indigenous people, most notably in Papua, remained subject to widespread discrimination, and there was little improvement in respect for their traditional land rights. Mining and logging activities, many of them illegal, posed significant social, economic, and logistical problems to indigenous communities. The government failed to prevent domestic and multinational companies, often in collusion with the local military and police, from encroaching on indigenous people's land.

In Papua tensions continued between indigenous Papuans and migrants from other provinces, between residents of coastal and inland communities, and among tribes. Some in the indigenous community accused the newcomers of price gouging and condescension, while some newcomers claimed that indigenous Papuans treated them with resentment and suspicion.

In Central Kalimantan, relations between indigenous Dayaks and ethnic Madurese transmigrants remained poor in the wake of 2001 interethnic violence. However, at least 30 thousand to 57 thousand displaced ethnic Madurese had returned to Central Kalimantan by year's end. Despite interethnic tensions, local elections were orderly and relatively peaceful. Relations between the two groups also remained poor in West Kalimantan, where former residents of Madurese descent were obstructed in their attempts to reclaim their property.

In February the Human Rights Commission in South Sulawesi concluded that the police committed a gross human rights violation in 2003 when they fired on farmers and indigenous persons attempting to reoccupy lands leased by the government to the London Sumatra Company; four persons were killed and more than a dozen were injured.

Human rights activists said that the government-sponsored transmigration program violated the rights of indigenous people, bred social resentment, and encouraged the exploitation and degradation of natural resources on which many indigenous persons relied. In some areas, such as parts of Sulawesi, the Maluku, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were poor.

#### Other Societal Abuses and Discrimination

There was some societal discrimination against persons with HIV/AIDS. Some individuals received prejudicial treatment at medical centers, saw their confidential laboratory results released, or had their identity published in a newspaper. In most if not all such cases, the government failed to take corrective action. In Papua, where the incidence of HIV infection is significantly higher than elsewhere in the country, community members and even families often stigmatized and ostracized those known to be infected with the virus. However, the government encouraged tolerance, took steps to prevent new infections, and drew up plans to subsidize antiretroviral drugs.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides broad rights of association for workers, and workers exercised these rights. The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. The law stipulates that 10 or more workers have the right to form a union, with membership open to all workers, regardless of political affiliation, religion, ethnicity, or gender. Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The government records, rather than approves, the formation of a union, federation, or confederation and provides it with a registration number. Under the law, 87 union federations notified the Ministry of Manpower and Transmigration (the manpower ministry) of their existence and received registration. Ministry officials noted that only 64 federations recorded by the ministry had verifiable members. The vast majority of union members belonged to one of three union confederations: the All-Indonesia Trade Union Confederation (KSPSI), the Indonesian Prosperity Trade Union Confederation (KSBSI), and the Indonesian Trade Union Congress (KSPI). In addition more than 18 thousand workplace-level units were registered with the manpower ministry.

According to the government, the country's total labor force consisted of approximately 110 million workers, 42 percent of whom worked in the agricultural and forestry sector. From April to September, the manpower ministry conducted a survey of union membership, the results of which indicated a significantly reduced number of union members compared with previous estimates. In the past, the government had relied upon unions' self-reported membership statistics. The manpower ministry estimated total trade union membership at 3.4 million workers, less than 4 percent of the total workforce. However, if compared to the country's 23.8 million regular, formal sector employees (a category that excludes the self-employed, employers, casual workers, and unpaid workers), union membership would be approximately 14 percent.

The law recognizes civil servants' freedom of association and right to organize, and employees of several ministries formed employee associations; union organizations sought to organize these workers. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

The law allows the government to petition the courts to dissolve a union if it conflicts with the state ideology of *Pancasila* or the constitution, or if a union's leaders or members, in the name of the union, commit crimes against the security of the state and are sentenced to at least five years in prison. Once a union is dissolved, its leaders and members may not form another union for at least three years. There were no reports that the government dissolved any unions during the year.

The law prohibits antiunion discrimination by employers and others against union organizers and members and provides penalties for violations; however, the government did not effectively enforce the law in many cases. There were frequent, credible reports of employer retribution against union organizers, including dismissals and violence that were not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized. Legal requirements existed for employers to reinstate workers fired for union activity, although in many cases the government did not enforce this effectively.

During the year the International Union of Food Workers Associations (IUF) accused the management of a sugar plantation of suspending Daud Sukanto, the president of the IUF-affiliated independent Federation of Sugar Plantation and Mill Workers (FSPM TG), following the FSPM TG's founding in February, and of otherwise harassing the union. Manpower officials in Lampung upheld the dismissal based on Daud's rejection of a company wage proposal. The officials withdrew legal recognition of the union. In October the manpower minister informed the union it would need to reregister and asked FSPM TG to withdraw its complaint to the ILO. The local manpower office formally registered the union on October 26.

In April workers at a private security firm in Jakarta, Group4/Securicor, went on strike over the firm's plans to reduce benefits for employees following a company merger. According to the foreign-financed, labor support organization Center for International Labor Solidarity, on May 30, Jakarta police called in for questioning and intimidated four union leaders. The police reportedly explained that they were investigating the union leaders for possible charges of defamation and asked them to identify other workers from photographs taken at a lawful union demonstration in April. The company terminated 200 workers and refused to rehire them despite a decision by the local manpower officer that the strike was legal and the strikers should be rehired. In October a labor dispute resolution committee awarded the workers two months' salary. At year's end the workers had not yet received any monetary compensation.

Local union leader Ahmad Fauzi, from KSBSI, completed an 11-month jail sentence in August. In 2004 a court in Batam convicted Fauzi of theft and sentenced him to jail. The conviction followed a union campaign at PT Batam Expressindo Shipyard. According to the Solidarity Center, Fauzi denied the company's accusation that reportedly centered on the theft of \$8 of scrap aluminum. KSBSI claimed that the company's legal action against Fauzi constituted retribution for his union activities.

Pending implementation of the 2004 Disputes Settlement Act and its new labor court system, regional and national labor dispute resolution committees continued to adjudicate charges of antiunion discrimination. The committees' decisions could be appealed to the state administrative court. However, due to a history of adverse decisions for labor and the long time necessary to process disputes, sometimes requiring years, many unions believed that these committees were not realistic alternatives for settling disputes. As a result, workers frequently presented their grievances directly to Komnas HAM, the DPR, or NGOs. Administrative decisions in favor of dismissed workers usually took the form of monetary awards but rarely reinstated workers. The law required that employers obtain the approval of the labor dispute resolution committee before firing workers, but employers often ignored the law in practice.

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

The law allows unions to conduct their activities without interference; however, the government often did not protect this right in practice. The law provides for collective bargaining and allows workers' organizations that register with the government to conclude legally binding collective labor agreements (CLAs) with employers and to exercise other trade union functions. The law includes some restrictions on collective bargaining, including a requirement that a union or unions represent more than 50 percent of the company workforce to negotiate a CLA.

The Manpower Development and Protection Act (Manpower Act), which regulates collective bargaining, the right to strike, and general employment conditions does not apply to SOEs. Although the law was written with ILO technical assistance, some unions claim that the law contains inadequate severance benefits and protection against arbitrary terminations; and does not sufficiently restrict against outsourcing and child labor. The government continued to issue implementing decrees for the Manpower Act.

In January 2004 the president approved the Industrial Relations Disputes Settlement Act that, together with the 2000 Trade Union Act and the 2003 Manpower Act, constitutes the revised legal basis for industrial relations and worker rights. The Disputes Settlement Act stipulates a new system of tripartite labor courts, replacing the previous tripartite committees. The act also outlines settlement procedures through mediation and arbitration. The ILO provided assistance in the development of the law. The government had not established the new labor court system by year's end.

According to the manpower ministry, during the year there were 9,146 CLAs in effect between unions and private companies. Company regulations, allowed for under government regulations, substituted for CLAs in another 36,459 companies, many of which did not have union representation. The Manpower Act requires that employers and workers form joint employer/worker committees in companies with 50 or more workers, a measure to institutionalize communication and consensus building. However, the number of such bodies did not increase significantly after passage of the act.

All workers, whether or not union members, have the legal right to strike, except for public sector workers and those involved in public safety activities. The law allows workers in these latter categories to carry out strikes if they are arranged so as not to disrupt public interests or endanger public safety. Private sector workers exercised their right to strike, as did those in state enterprises, although the latter did so with less frequency. The large majority of government-recorded strikes involved nonunion workers. Unions or workers' representatives must provide seven days' notice to carry out a legal strike. The law calls for mediation by local manpower ministry officials but does not require government approval of strikes. In previous years, workers and employers rarely followed dispute settlement procedures, and workers rarely gave formal notice of the intent to strike because manpower ministry procedures were slow and had little credibility among workers. The 2003 passage of the Manpower Act did not significantly change this situation. The number of government-recorded strikes declined in recent years, from 220 strikes involving more than 97 thousand workers in 2002 to 125 strikes involving some 53 thousand workers in 2004.

The underpayment or nonpayment of legally required severance packages precipitated strikes and labor protests. The Solidarity Center documented cases in which foreign employers in the garment and footwear industry, faced with falling orders and plant closures, fled the country to avoid making legally required severance payments.

Labor activists also reported that factory managers in some locations employed thugs to intimidate and assault trade union members who attempted to organize legal strike actions. At times the police intervened inappropriately and with force in labor matters, usually to protect employers' interests. In April the national police adopted new guidelines for "handling law and order in industrial disputes," developed with the assistance of the ILO.

On July 20, security personnel and police clashed with workers protesting layoffs at two companies, PT Pan United and IMES, in Batam. According to a joint statement by 3 labor unions, the violence left 26 workers injured and damaged many motorcycles owned by the protesting workers.

The management of a palm oil plantation in Riau Province, P.T. Musim Mas, fired approximately 700 workers for striking, authorities arrested 6 union officials and members in connection with the strike. The strike followed the company's termination of nine union leaders. On September 15, company security guards reportedly drove a truck into a group of striking workers outside the factory, injuring two of the workers.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs). However, nongovernmental observers, including the Solidarity Center, described stronger antiunion sentiment and actions by employers in EPZs.

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

The law prohibits forced labor or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

The government tolerated forms of compulsory labor practiced in the migrant worker recruitment process. The unscrupulous practices of migrant worker recruiting agencies, and poor enforcement of government regulations often led to debt bondage and extended unlawful confinement. According to press reports and research by the Solidarity Center, recruiting agencies frequently kept migrant workers in holding centers for months before sending them abroad. While in the holding centers, migrant workers normally did not receive pay, and recruiters often did not allow them to leave the centers. In most instances, workers were forced to pay recruiters for the cost of their forced stay, which resulted in large debts to the recruiters. Police and manpower ministry officials conducted raids on 14 illegal migrant worker holding centers in Jakarta from December 2004 to January, targeting unlicensed holding centers that forcibly held prospective female workers, both adults and children, some in inhumane conditions. The raids resulted in the release of 1,227 women and girls, and the arrests of 10 suspects. Another 12 police raids through October freed 565 female workers and led to the arrest of 10 persons, according to the manpower ministry.

Forced and compulsory labor by children occurred (see section 6.d.).

#### d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children from working in hazardous sectors and the worst forms of child labor, to include mining, skin diving, construction, prostitution, and offshore fishing platforms. However, the government did not enforce these laws effectively. Law, regulations, and practice acknowledged that some children must work to supplement family incomes. The Manpower Act prohibits the employment of children, defined as persons under 18, with the exception of those 13 to 15 years of age, who may work no more than 3 hours per day and only under a number of other conditions, such as parental consent, no work during school hours, and payment of legal wages. The law does not appear to address exceptions for children ages 16 to 17.

The law addresses economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade, and provides severe criminal penalties and jail terms for persons who violate children's rights. During the year the government prosecuted a small number of cases under these provisions.

The government has a national action plan to eliminate the worst forms of child labor, as well as separate national action plans for combating trafficking and for eliminating the commercial sexual exploitation of children.

Child labor remained a serious problem in the country. An estimated six to eight million children exceeded the legal three-hour daily work limit, working in agriculture, street vending, mining, construction, prostitution, and other areas. More children worked in the informal than the formal sector. Some children worked in large factories, but their numbers were unknown, largely because documents verifying age could be falsified easily. Children worked in industries such as rattan and wood furniture, garment, footwear, food processing, and toy making, and

also in small-scale mining operations. Many girls between 14 and 16 years of age worked as live-in domestic servants. The ILO estimated that there were 2.6 million domestic workers in Indonesia, of whom at least 688 thousand were children. According to a June Human Rights Watch report, children between 12 and 15 years of age worked 14 to 18 hours per day, 7 days a week from 4 a.m. to 10 p.m. with employers who often subjected them to physical and sexual threats. Many child servants were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights.

The law and regulations prohibit bonded labor by children; however, the government was not effective in eliminating forced child labor, which remained a serious problem. A significant number of children worked against their will in prostitution, pornography, begging, drug trafficking, domestic service, and other exploitative situations, including a small number on fishing platforms (see section 5).

Social and cultural resistance remained a challenge in addressing child labor. Many parents disagreed with government efforts to restrict children from working, arguing that the government offered inadequate economic support to guarantee these families' welfare.

Enforcement of child labor laws remained largely ineffective. Despite legislative and regulatory measures, most children who worked, including as domestics, did so in unregulated environments. Anecdotal evidence suggested that local labor officials carried out few child labor investigations.

#### e. Acceptable Conditions of Work

Provincial and district authorities, not the central government, establish minimum wages, which vary by province, district, and sector. Provincial authorities determined provincial minimum wage levels based on proposals by tripartite (workers, employers, and government) provincial wage commissions. The provincial minimum wage rates establish a floor for minimum wages within the province. Local districts set district minimum wages using the provincial levels as references. Districts also set minimum wages in some industrial sectors on an ad hoc basis. Provinces and districts conducted annual minimum wage rate negotiations, which often produced controversy and protests.

The minimum wage levels set by most local governments did not provide a worker and family with a decent standard of living. Most province-level minimum wage rates fell below the government's own calculation of basic minimum needs. During the year Jakarta offered the highest minimum wage level approximately \$71 (710 thousand rupiah) per month, while the manpower ministry reported official minimum wages as low as \$34 (340 thousand rupiah) per month in one area. In December most provincial governments decided to raise minimum wages by 15 percent or more effective in January 2006. Following that decision thousands of workers in Medan, Surabaya, Jakarta, and elsewhere demonstrated to protest minimum wage rates, which they said were still below the government-determined minimum cost-of-living standard. Employers argued that increasing wage rates, among a number of other factors, made the country's workers less competitive internationally and limited job growth.

Local manpower officials are responsible for enforcing minimum wage regulations. Enforcement remained inadequate, particularly at smaller companies and in the informal sector. In practice, official minimum wage levels applied only in the formal sector, which accounted for 35 percent of the workforce.

Labor law and ministerial regulations provide workers with a variety of benefits. Persons who worked at more modern facilities often received health benefits, meal privileges, and transportation. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency JAMSOSTEK. At year's end, companies had registered 26 million workers, according to JAMSOSTEK.

The law establishes a 40-hour workweek, with one 30-minute rest period for every 4 hours of work. Companies often required a 5½ or 6-day workweek. The law also requires at least one day of rest weekly. The daily overtime rate was 1½ times the normal hourly rate for the first hour and double the hourly rate for additional overtime, with a maximum of 3 hours of overtime per day and no more than 14 hours per week. Workers in industries that produced retail goods for export frequently worked overtime to meet contract quotas. Unions complained that companies relied upon excessive overtime in some electronics assembly plants, to the detriment of workers' health and safety. Observance of laws regulating benefits and labor standards varied between sectors and regions. Employer violations of legal requirements were fairly common, resulting in some strikes and protests. In May approximately 2,500 workers at the Katexindo Citra Mandiri company in North Jakarta occupied the factory in protest of the company's increase in the hourly quota of garment items to be produced from 60 to 85 per hour. Workers described the quota as excessive and in violation of voluntary labor standards endorsed by the company's international buyers. The Manpower Ministry continued to urge employers to comply with the law; however, government enforcement and supervision of labor standards were weak.

Both law and regulations provide for minimum standards of industrial health and safety. In practice, the country's worker safety record was poor. As revealed in press reports, JAMSOSTEK recorded 49,148 occupational accidents in the first half of the year and 95,418 in all of 2004. Local officials have responsibility for enforcing health and safety standards.

In larger companies, the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Workers are obligated to report hazardous working conditions, and employers are forbidden by law from retaliating against those who do report hazardous working conditions; however, the law was not enforced effectively.

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