

visited 12/18/1008



U.S. DEPARTMENT of STATE

## Indonesia

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

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Indonesia is a republic with a presidential system and three branches of government. The President is head of state and serves a 5-year term for a maximum of two terms. On October 20, Susilo Bambang Yudhoyono, the country's first popularly elected president, was inaugurated after defeating incumbent President Megawati Soekarnoputri. The People's Consultative Assembly (MPR), which convenes once a year, has the power to amend the Constitution. Routine legislative affairs, including enacting legislation, are the responsibility of the House of Representatives (DPR). During the year, the Government made further progress in its transition from 3 decades of repressive and authoritarian rule to a more pluralistic and representative democracy. The country held successful legislative elections and free, fair, and peaceful direct presidential elections. Previously, the legislature chose the president. The Government further reduced the formal political role of the police and military, who relinquished their appointed seats in the DPR in October, when the new legislature was sworn in. The Constitution provides for an independent judiciary; however, in practice, the courts remained subject to outside influences, including the executive branch.

The Indonesian Armed Forces (TNI) formally have responsibility for external defense, and the Indonesian National Police for internal security; however, in practice, the division of responsibilities remained unclear. They are known collectively as the security forces. The military played a role in internal security matters, particularly in conflict areas such as Aceh, the Moluccas, Central Sulawesi, and Papua (formerly known as Irian Jaya). There was considerable friction between the police and the TNI, but joint operations were common in conflict areas. A civilian defense minister oversees the military but in practice exercised only limited control over TNI policy and operations. The military and the police continued to wield significant political influence as well as economic power through businesses operated by security force members, their proxies, and foundations. The security forces showed greater willingness to hold accountable human rights violators within their ranks; during the year, hundreds of soldiers were court-martialed, and dozens of police officers were dismissed or otherwise disciplined. However, most such disciplinary actions involved low-level officers and sometimes mid-level officers who committed lesser crimes, such as beatings, and in some cases punishments did not match the crime. Members of the security forces continued to commit numerous serious human rights violations, particularly in areas of separatist conflict.

During the year, the economy, which increasingly was market driven, grew by an estimated 4.8 percent; however, this failed to reduce unemployment or absorb the estimated 2.5 million new job seekers entering the market every year. The population was approximately 238 million. The poverty rate fell from 27 percent in 1999 to 16 percent in 2002; however, it increased slightly to an estimated 17.5 percent during the year. The estimated per capita income was \$867. Consumer demand was the leading force driving economic growth. At year's end, the northern Sumatra region was struck by an earthquake and a resultant tsunami, which together left some 240,000 persons dead and missing in Aceh and North Sumatra Provinces and caused extensive destruction of infrastructure in Aceh Province.

The Government's human rights record remained poor; although there were improvements in a few areas, serious problems remained. Government agents continued to commit abuses, the most serious of which took place in areas of separatist conflict. Security force members murdered, tortured, raped, beat, and arbitrarily detained civilians and members of separatist movements, especially in Aceh and to a lesser extent in Papua. Some police officers occasionally used excessive and sometimes deadly force in arresting suspects and in attempting to obtain information or a confession. Retired and active duty military officers known to have committed serious human rights violations occupied or were promoted to senior positions in the Government and the TNI. Prison conditions remained harsh. The judicial system was corrupt, which contributed to the failure to provide redress to victims of human rights violations or hold perpetrators accountable. Security force violators sometimes used intimidation and bribery to avoid justice. Land disputes generated numerous human rights abuses. These frequently involved forced evictions, some accomplished with lethal force. As in previous years, the Government jailed some peaceful antigovernment protestors for "insulting the President" or "spreading hatred against the Government." Politicians and tycoons showed greater willingness to take legal action against news organizations whose reporting they found insulting or offensive, and this trend had a chilling effect on some investigative reporting. Members of the security forces and other groups sometimes limited freedom of expression by intimidating or attacking journalists whose articles they found objectionable. The Government restricted the foreign press from traveling to conflict areas in Aceh, Papua, Sulawesi, and Maluku. Authorities occasionally tolerated discrimination against and abuse of religious groups by private actors. The Government at times restricted the activities of nongovernmental organizations (NGOs), particularly in Aceh and Papua. Women were victims of violence and discrimination. Female genital mutilation (FGM) occurred in some parts of the country, although the type practiced was largely symbolic in nature. Child sexual abuse and violence against children remained serious problems. Trafficking in persons was a serious problem. Discrimination against persons with disabilities and mistreatment of indigenous people were problems. The Government allowed new trade unions to form and operate, but it frequently failed to enforce labor standards or address violations of worker

# visited 12/18/1008

rights. Forced child labor remained a serious problem.

Terrorists, civilians, and armed separatist groups also committed serious human rights abuses.

The country made substantial progress in strengthening its democracy. There was a series of three national elections, in which voter turnout was notably high and the transition from defeated incumbent to newly elected President peaceful. The military and the police lost their nonelected seats in Parliament. The Government passed the Domestic Violence Act, which criminalizes domestic violence, and took steps to address trafficking in persons, including prosecuting traffickers and beginning to strengthen antitrafficking laws. The Government issued a decree authorizing the establishment of a 40-member Papuan People's Council. The Government also took serious legal measures to bring terrorists to justice.

## 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 killing of rebels, suspected rebels, and civilians in areas of separatist activity, where most politically motivated extrajudicial killings also occurred. There was evidence that the TNI considered anyone its forces killed in conflict areas to have been an armed rebel. Security forces also committed nonpolitical extrajudicial killings. The Government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses in Aceh.

The TNI tried, jailed, and discharged some soldiers for rape, robbery, and torture; however, no security force members were prosecuted for unlawful killings in Aceh (see Section 1.d.).

In Aceh, military and police personnel committed extrajudicial killings and used excessive force against noncombatants. The Government placed Aceh under martial law from May 19, 2003, until May 18, when the Government introduced a state of civil emergency. The Government extended the same extraordinary measures introduced during martial law to the civil emergency period, including severe restrictions on civil liberties, and created extraordinary powers for the security forces, which continued to operate with greatly reduced restrictions. During the civil emergency period, the TNI continued to use martial law authority to make arrests, a legal authority normally reserved for the police. The TNI media center in Lhokseumawe, Aceh, reported that the TNI killed 1,883 Free Aceh Movement (GAM) insurgents and arrested at least 1,529 and that 1,137 others surrendered to TNI between May 2003 and November. At year's end, a disastrous tsunami struck the region resulting in a temporary cessation of hostilities declared unilaterally by both the TNI and GAM.

Accurate, independent, and up-to-date information on the number of GAM insurgents and other persons killed in Aceh was difficult to obtain. According to a coalition of NGOs in Aceh, between January and October, at least 57 civilians, 251 GAM members, and 21 security personnel were killed. Martial law administrators limited information, restricted access for foreign journalists, and forbade contact with the GAM. Until the tsunami struck on December 26, the Government effectively prohibited foreign humanitarian aid workers, except for a limited number of U.N. workers, from entering the province. Data from different sources, even within the Government, often were contradictory. NGO sources frequently questioned casualty figures announced by security forces, and they claimed that the number of victims was much higher and that many of those killed were civilians. Security forces and rebels gave conflicting information on victims' identities, which made it difficult to determine the breakdown of civilian, rebel, and security force deaths. The press routinely was under pressure to report only official casualty figures, which may have underreported both civilian and security force casualties. Police rarely investigated extrajudicial killings and almost never publicized such investigations.

Amnesty International (AI) reported that a farmer from Kuala Simpang subdistrict in East Aceh fled the country after two men in his village were killed by the military in a month. According to the farmer, the first person was killed by mistake because he shared the same name as a suspected GAM member, and the second person was captured and killed during a sweep for GAM members. Most killings were of young men suspected of being GAM members; however, there also were reports in the media of unlawful killings of women and children.

The Government made no progress in establishing accountability in a number of extrajudicial killings in Aceh in 2003, including the June 16 killing of Muzakir Abdullah and the May killing of Muhammad Jamaluddin. There were no known developments in the May 2003 killing by TNI soldiers of 10 men in Cot Rebo village in Aceh. There also was no progress made in establishing accountability for extrajudicial killings in Aceh in 2002, including the June killings of two farmers on Kayee Ciret Mountain and the August killings of three women in the north Aceh village of Kandang.

During the year, GAM members killed many soldiers, police, civil servants, and civilians. In many cases, the victims were killed for allegedly collaborating with the security forces, while in other cases, the motive appeared to be criminal. Although many Acehnese feared and resented the security forces, many also feared and were intimidated by the GAM because of its extortion and criminal activities and the severe hardships that the GAM's long-running insurgency has caused for the Acehnese. On February 5, TNI troops found the bodies of four civilians in the jungle near Peureulak, East Aceh. The four had died of gunshot wounds. The TNI believed they had been GAM hostages. On

# visited 12/18/1008

February 11, GAM rebel Junaidi allegedly shot and killed civilian Cut Musdaifah in Wakheuh village. According to witnesses, two gunmen forced Musdaifah to accompany them and shot her when she attempted to escape. On March 24, GAM rebels allegedly shot and killed local legislature candidate Muhammad Amin. The TNI believed the GAM was targeting civilians who supported the coming elections. Also on March 24, a group of armed men believed to have been GAM rebels shot and killed a paramedic in South Aceh; the TNI believed extortion was the motive for the attack.

The Government reported limited progress in prosecuting those responsible for unlawful killings that might have been carried out by GAM members in previous years, including those of Zaini Sulaiman, Sukardi, Sulaiman Ahmad, Tengku Safwan Idris, and Nashiruddin Daud. A police investigation into the 2001 killing of Dayan Dawood, rector of Banda Aceh's Syiah Kuala University who was shot after offering to mediate between the GAM and the Government, led to the arrest and conviction of Mahyeddin bin M. Adan with a 17-year prison sentence.

There were no known developments in the following cases in 2003 and previous years of unlawful killings that could not be clearly attributed to either the security forces or GAM rebels: The December 2003 bombing that killed 9 persons at an outdoor concert in Peureulak; the July 2003 killing of former GAM member Cut Aca Budi; the July 2003 killing of schoolteachers Muslim Sulaiman and his wife Darmawati; the May 2003 killing of local legislature member Jamaluddin Hasany; the mass graves discovered in 2003 in Nisam and Permata Districts; the 2002 killings of 6 persons in the town of Lombaro Angan, Aceh Besar District; the 2002 killings of 2 high school girls in the village of Gumpueng Tiro, Pidie regency; and the 2001 massacre of 31 persons at a palm oil plantation in Idi Rayeuk, East Aceh.

On September 7, prominent human rights activist Munir Said Thalib was found dead on a flight from Jakarta to the Netherlands. The Dutch Government announced that an autopsy report indicated the cause of death was arsenic poisoning. The incident was under investigation at year's end.

In Central Sulawesi, political and economic tensions between approximately equal populations of Christians and Muslims continued to cause violence. A total of 22 persons died in communal violence, the same number as in 2003. Unlawful killings included a series of shootings by unidentified gunmen, continuing a trend that began in October 2003. On March 30, unidentified gunmen shot and killed Reverend Freddy Wuisan near Membuke Church in Poso. On May 30, unidentified gunmen shot and killed prosecutor Fery Silalahi, a Christian, in Palu after he and his family left a religious service. Silalahi was the lead prosecutor in the ongoing trial of three accused Bali bombing accomplices. The fact that assailants shot only Silalahi, leaving his wife and children unharmed, gave the impression of an assassination. On July 18, two unidentified assailants shot and killed Reverend Susianti Tinulele in Palu. These incidents remained unsolved at year's end. During the year, 12 suspects were arrested for the October 2003 attack in Beteleme in which at least 14 persons were killed. The Palu District Court found 11 guilty and handed down prison sentences ranging from 3 to 4 years; 1 suspect was acquitted for lack of evidence. Most residents reportedly were satisfied with results of the investigation and trials. There was no progress reported in police investigations of October 2003 attacks on mainly Christian villages, in which 10 persons were killed, or of the November 2003 killings of 2 men in the Poso coastal villages of Kilo Trans, home to ethnic Balinese migrants, and 2 men in the Christian village of Marowo.

In Maluku and North Maluku, unlawful killings increased from 2003 when sectarian violence broke out on April 25 after a commemoration of the anniversary of the separatist Republic of South Maluku (RMS). In the violence that followed, at least 40 persons were killed and approximately 260 were injured. The following weeks were marred by sporadic violence and small bomb explosions that destroyed approximately 356 buildings, including a church and a mosque. By June, the government-brokered peace agreements between the two religious communities were restored.

The Government reported little progress in establishing accountability in the following cases in Poso: The July 2003 explosion of a bomb in a cafe in the village of Sayo, which killed one person and injured five others; the June 2003 shooting of two men in the village of Kapompa; the 2002 bombing of a crowded passenger bus, which killed five persons; and numerous crimes committed in the province by former Laskar Jihad members.

The Government made some progress during the year establishing accountability for violence and human rights abuses in the region in 2003 and previous years. In February, Maluku prosecutors filed indictments against seven persons for the killing of two civilians during the 1999-2002 sectarian conflict in the region.

In Papua Province, the Government continued to conduct operations against rebels of the Free Papua Movement (OPM), and OPM rebels continued their operations against military units. Also in Papua, the TNI and police continued 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. On June 16, a foreign court indicted OPM guerilla Anthonious Wamang in connection with the killings. At year's end, Wamang remained at large, and the investigation remained open.

The Government made limited progress in establishing accountability for numerous human rights violations committed in Papua in previous years, including those committed in Biak, Abepura, Wasior, and Wamena. During the year, a human rights court in Makassar began proceedings against police implicated in abuses and killings of Papuans in a 2000 incident in Abepura. The National Human Rights Commission (Komnas HAM), created and funded by the Government but not a government agency, completed its report on the 2001 Wasior incident, in which police allegedly killed 12 civilians following an attack on a police post that left 5 policemen dead, and the Wamena incident, in which dozens of residents of the Central Highlands area of Kuyowage allegedly were tortured by unknown parties during a military

# visited 12/18/1008

operation that followed the April 2003 break-in at the Wamena armory. The Commission found that soldiers and police had committed gross human rights violations, including murder, evictions, and torture. Komnas HAM categorized these violations as crimes against humanity and, on September 2, submitted its report to the Attorney General's Office (AGO) for possible prosecution (see Section 1.c.).

Police frequently 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 July 31, in Poso, police shot and injured Bambang, a wrongly accused suspect in the July murder of Reverend Susianti Tinulele. Police alleged Bambang had tried to escape, but neighbors said he was shot for no reason. On August 29, in Sragen, Central Java, police shot and killed three suspects who they claimed tried to escape from police custody. On August 30, in Pekanbaru, police shot and killed criminal suspects Hermansyah and Ade Candra, allegedly because the two tried to escape when police demanded to know the hiding place of their partners.

During the year, the Government made no significant progress establishing accountability for abuses from 2003, including the fatal burning by police of burglary suspect Arnoldus Adu in Rote, in East Nusa Tenggara Province, the beating death of an East Java resident by police in June, and the alleged suicide of Ithwanuddin, suspected member of the terrorist organization Jemaah Islamiya (JI).

The Government made no significant 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. Komnas HAM Chairman Abdul Hakim Garuda Nusantara asked the DPR to reverse its 2001 decision not to classify these cases as human rights violations, but at year's end, the DPR had not responded. In June 2003, the court-martial began of an enlisted man, one of three TNI soldiers indicted for reckless killing in connection with the 1999 Semanggi incident. The soldier was accused of shooting and killing student Yap Yun Hap without orders from his superior. Two other defendants, who were officers, were to be tried separately. At year's end, all of the cases were pending in the AGO, awaiting a decision from the DPR.

During the year, bombs exploded in or near the cities of Jakarta, Ambon, Peureulak, and Poso, among others. On January 10, members of Sulawesi-based Laskar Jundullah, an extremist organization, bombed a cafe in Palopo, South Sulawesi, killing four persons. Police arrested at least eight suspects, including alleged mastermind Agung Abdul Hamid, whose trial started on October 28. On September 9, suspected JI members set off a powerful bomb in front of the Australian Embassy in Jakarta, killing 10 persons and injuring more than 150 others. By year's end, the Government had arrested at least 19 persons in connection with the attack, including the suspected mastermind Iwan Darmawan, also known as Rois.

The Government made significant progress in prosecuting those responsible for bombings carried out in previous years. Authorities identified, apprehended, and successfully prosecuted many of those involved in the August 2003 bombing of the J.W. Marriott Hotel in Jakarta, which killed 12 persons, and the 2002 Bali bombings, which killed 202 persons. Those trials were scheduled to start in early 2005. In total, police investigators had arrested more than 130 JI-related suspects since 2002. By year's end, courts in Denpasar, Bali; Palu, Central Sulawesi; Lamongan, East Java; and Jakarta had convicted approximately 80 persons in connection with a series of terror attacks since 2001. Following the 2002 bombings in Makassar, South Sulawesi, the Makassar District Court convicted 18 suspects and acquitted another. In October, police captured Agung Abdul Hamid, the suspected mastermind behind the Makassar bombings and the January 10 South Sulawesi bombing.

Mobs carried out vigilante justice on many occasions, but reliable statistics on its prevalence were not available. Incidents of theft or perceived theft triggered many such incidents. For example, on August 16 in Bogor, West Java, a mob attacked and killed Ilham Kurniawan for stealing a motorcycle. On August 21 in Palembang, South Sumatra, a mob mistook a man named Junaedi for a thief and beat him to death. No official action was taken against those responsible for these killings.

Police and soldiers clashed on a number of occasions during the year. On March 22, more than 100 TNI soldiers from Battalion 143 in South Lampung attacked a police post at Rajabasa bus terminal. The clash stemmed from a personal dispute, and regional military commander Major General Syahril BP Peliung later apologized to police and promised to take disciplinary action against the soldiers involved. At the end of the year, four privates were under investigation for the incident. On November 25, TNI members killed one police officer and seriously injured three others when they attacked a police post in East Aceh over a dispute involving palm oil business interests. Twenty-five TNI soldiers were arrested for their participation in the attack.

At schools, universities, police training centers, and other institutions, upperclassmen, or superiors sometimes physically mistreated underclassmen or subordinates, continuing a practice that dated back many years. During the year, a number of such incidents resulted in death. On February 23, police in Bandung, West Java, named 12 students of the State Sunan Gunung Djati Islamic Institute as suspects in the death of fellow student Imam Nawawi, who died during an extracurricular activity the previous week. Eight were accused of beating Nawawi to death. Police authorities reportedly took no further action regarding the September 2003 deaths of five recruits in Palu, Central Sulawesi, who were victims of hazing by members of the Police Mobile Brigade (Brimob). In September 2003, in Sumedang, West Java, upperclassmen at the government-run Public Administration Institute (STPDN) allegedly strangled sophomore Wahyu Hidayat. An STPDN student said upperclassmen beat Wahyu to teach him a lesson in loyalty after he failed to appear at a flag-raising ceremony on Independence Day. On April 15, 10 students were convicted and sentenced to 7 to 10 months in jail in connection with the death. Prosecutors had sought up to 5 years in prison for the defendants (see Section 1.c.).

# visited 12/18/1008

## 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 a coalition of human rights NGOs, 46 civilians and 4 GAM members were kidnapping victims as of November; the same organization reported 130 civilians and 3 GAM kidnapping victims in 2003.

The security forces were implicated in some disappearances. An eyewitness report to AI claimed a 16-year-old boy working in a rice paddy was shot in the ankle when he tried to run away from a soldier. The boy was subsequently captured, and his whereabouts were unknown at year's end. The Government made no significant progress ascertaining the whereabouts of those who disappeared in 2003, including Mukhlis and Zulfikar, members of the local NGO Link for Community Development, after plainclothes military intelligence officers detained them in the town of Bireuen.

The GAM also abducted persons during the year. Elementary school teachers Muhammad Amin Alwi and Hasballah were forcibly taken by 10 armed men in military uniforms in Nagan Raya regency. The TNI believed the men were members of the GAM, because students reported that the kidnapers used an Acehnese dialect and complained the school had not helped in their struggle since martial law was implemented. In June 2003, in the East Aceh area of Peureulak, journalist Ersi Siregar of Rajawali Citra Televisi, cameraman Fery Santoro, driver Rahmatsyah, and the wives of two TNI officers were taken hostage by the GAM. One of the wives, Cut Soraya, was pregnant. Ersi Siregar was killed in December 2003 during a firefight between GAM and marines. After lengthy negotiations between the GAM and the International Committee of the Red Cross (ICRC), Fery Santoro was released in May along with 150 other civilian hostages, including the two wives of TNI officers. Soraya reported being beaten by her captors and ultimately miscarried.

In Papua, there were no credible reports of disappearance. 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.

In Central Sulawesi, Maluku, and North Maluku, there were no credible reports of disappearance during the year. The Government made some progress in prosecuting those responsible for disappearances that occurred in Central Sulawesi in 2002. During the year, 14 soldiers were court-martialed and received punishments ranging from dishonorable discharge to 4 years in prison over abductions and extrajudicial killings committed in the Central Sulawesi regency of Poso in December 2002. The TNI accused 2 lieutenants and 12 privates of kidnapping dozens of civilians in the Toyado area but declined to make their names public. The soldiers allegedly abducted the civilians in December 2002, after one of their commanders was shot in the head during a clash between Christians and Muslims in the Sepe area. Some of the abducted civilians turned up dead, while others remained missing at year's end.

The Government made no additional progress in prosecuting those responsible for the 1996 attack by hundreds of progovernment civilians and soldiers on the Jakarta headquarters of what was then the Indonesian Democratic Party (PDI); 5 persons died and 23 persons disappeared in the attack. The Central Jakarta District Court charged five persons, three of them civilians, with vandalism and assault during the attack: Retired Colonel Budi Purnama, Lieutenant Suharto, Mochammad Tanjung, Jonathan Marpaung, and Rahimmi Ilyas. However, Petrus Kurniawan, a key figure in a group pressing for accountability, called the trial an "orchestration," saying the defendants were field operators, not the leaders behind the attack. During the year, police investigators again submitted to prosecutors six dossiers on the case, but prosecutors returned the case files to the police, saying the files were incomplete. Named in the dossiers were Jakarta Governor Sutiyoso, who in 1996 served as Jakarta's military commander; former State Intelligence Chief Zacky Anwar Makarim; Brigadier General Syamsiar Wangsamihardja; former Jakarta Police Chief Hamami Nata; Central Jakarta police official Abubakar Nataprawira; Colonel Haryanto; and former PDI Chairman Soerjadi.

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

The Criminal Code makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession; however, law enforcement officials widely ignored such statutes in practice. 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.

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. Physical torture cases included random beatings and acts involving hair, nails, teeth, and genitals. Heat, suffocation, electricity, and suspension by the feet were also used. Psychological torture cases reportedly included food and sleep deprivation, sexual humiliation, and forced witnessing or participation in acts of torture.

During the year, press restrictions in Aceh Province limited media reports on cases of torture there. However, a coalition of human rights NGOs reported 77 cases of civilians and 7 GAM members tortured, compared with 256 civilians and 16 GAM members tortured in 2003. The

# visited 12/18/1008

NGO Kontras reported that 214 civilians were tortured. In September, Human Rights Watch (HRW) reported widespread abuse of prisoners in Aceh by security forces. HRW reported that 24 of 35 Acehnese prisoners interviewed claimed they had been tortured and forced to confess involvement with the GAM. Examples of torture in the report included electric shocks and beatings with wooden beams and gun butts. The Government announced it would investigate the allegations contained in the HRW report. AI reported that in January, members of Brimob arrested a small shop owner suspected of being a GAM intelligence officer. He was held for 24 hours, during which Brimob members allegedly beat him in the face with the butt of a rifle and broke his nose. He also allegedly was burned by cigarettes on his arms, stomach, and thighs. AI representatives reported seeing dozens of burn marks still visible when they met with him in May. He was released and fled the country after his village paid \$22 (198,000 rupiah) to Brimob.

The Government reported no progress in prosecuting those responsible for acts of torture committed in Aceh in 2002 or 2003, including the beating and burning of civilian Rizki Muhammad.

In November 2003, in the Papuan city of Wamena, suspects Jigibalom and Tenius Murib were arrested for stealing weapons from a military arsenal. The two were ill but were denied proper medical attention. Also in Wamena, unidentified gunmen raided a government armory in April 2003. TNI officials detained for questioning suspect Yapenas Murib, who later died in TNI custody (see Section 1.a.). The Government did not investigate his death. Komnas HAM completed an investigation into reports that dozens of residents of the Central Highlands area of Kuyowage were tortured by unknown parties during a military operation that followed the break-in at the Wamena armory. Komnas HAM concluded that military forces tortured villagers and committed other gross human rights violations. The Government did not report any progress in prosecuting those responsible for this or other acts of torture committed in Papua in 2003 or 2002, including the torturing to death of Yanuaris Usi.

In early August, suspected JI member Saifudin Umar, alias Abu Fida, was found seriously injured in an East Java hospital. He claimed to have been secretly arrested and tortured by police. Police admitted arresting Abu Fida on the grounds that he had helped hide two JI fugitives; however, police denied torturing him. The Government made progress arresting and prosecuting those responsible for cases of torture in East Java. On January 19, three police officers were arrested for allegedly torturing two college students in Surabaya. On September 6, the Padang District Court in West Sumatra convicted and handed down 18-month prison sentences to five police officers accused of torturing to death narcotics suspect Faisal.

Rapes occurred in conflict zones (see Section 5). Human rights advocates blamed many of the rapes on soldiers and police. Statistics were unavailable, but credible sources provided a number of accounts that involved soldiers and police. Kontras reported that during the year of martial law in Aceh, 47 women and 29 children were victims of violence, including rape. The extent to which rape was a problem in Aceh was hard to assess, due to social stigma, the lack of reporting, and access to the region. The Council of the Central Information for Referendum Aceh (SIRA) reported nine cases of rape by military personnel in Aceh. The NGO Aceh Sehabat confirmed a report that on July 24, three TNI soldiers raped a 16-year-old girl in Kampung Meureu Baro-Indrapuri over a period of several months, leaving her pregnant. Family and friends reportedly knew that the girl was being raped but did nothing to stop it due to fear for their safety.

At schools, universities, police training centers, and other institutions, upperclassmen or superiors sometimes physically mistreated underclassmen or subordinates, a practice that dated back many years. During this period, a number of such incidents resulted in death (see Section 1.a.).

The Government failed to make progress in establishing accountability for the 1998 riots, which included acts of torture and other attacks against ethnic Chinese women in Jakarta, Solo, Medan, and other cities. In 2003, an investigative team from Komnas HAM investigated the incident, received the testimony of dozens of witnesses, and identified 20 suspects. However, at the end of the investigation, team leader Solahuddin Wahid declined to name publicly the suspects, some of whom were members of the police and military. The team summoned 86 civilians, mostly witnesses, to testify; all but 5 complied. The team also summoned 48 government, military, and police officials, of whom only 3 complied. Among those who did not comply were former armed forces commander Wiranto, TNI spokesman Major General Sjafrie Sjamsoeddin, and the former commander of the Army's Strategic Command Reserve (Kostrad), retired Lieutenant General Prabowo Subianto. Komnas HAM prepared a 1,500 page report on the riots and in September 2003 forwarded the report to the AGO, with the expectation that the AGO would conduct an investigation of its own. However, on March 4, the AGO returned the report to Komnas HAM, reportedly because it lacked testimony from key members of the security forces.

In Aceh Province, following the introduction of martial law in May 2003, more than 603 school buildings, the majority of them elementary schoolhouses, were burned. The Government attributed the arson attacks to the GAM, which has a history of destroying public buildings, including schools, because they were the most visible symbols of government presence and also because security forces often used abandoned government facilities as barracks or village headquarters. The GAM denied these allegations. By the end of the year, the Government had rebuilt 328 of the schools, but several hundred schools reportedly were destroyed by the December 26 tsunami. Human rights groups in Aceh reported that security forces continued the practice of marking houses of families of suspected GAM members with a red "X" or "GAM," thereby stigmatizing the inhabitants and in many cases leading to their ostracization.

No progress was made in the investigation of the alleged intentional 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.

# visited 12/18/1008

On September 28, approximately 150 members of the Betawi Brotherhood Forum (FBR), a group of criminals who claimed to be native Jakartans, raided a number of nightspots in the Jakarta areas of Cilincing and Muara Baru, saying the businesses were immoral and should close within a week. Police officers reportedly stood by as FBR members terrorized the nightspots. It was the FBR's first major attack since its 2002 attack against members of the Urban Poor Consortium at the Jakarta office of Komnas HAM. On June 27, self-described FBR members also forced the closure of a church in East Jakarta (see Section 2.c.). In October, the month of Ramadan, FBR gangs invaded nightclubs and other establishments that they believed were open inappropriately during the holy month. Eight FBR members were arrested for their actions. Several hundred stick-wielding persons from the Islam Defender's Front (FPI) attacked a popular Jakarta nightclub. Some police officials reportedly acquiesced in the attack, but after other high profile leaders criticized the attack, police deployed more than a thousand extra officers to patrol the streets. Four FPI members were arrested.

Conditions at the country's 365 prisons and detention centers were harsh, and overcrowding was widespread. Facilities frequently were two or three times over capacity. Guards regularly mistreated inmates and extorted money from them. Unruly detainees were held in solitary confinement for up to 6 days on a rice-and-water diet. The wealthy or privileged had access to better treatment in prison. In July, the country's most famous inmate, Hutomo "Tommy Suharto" Mandala Putra, son of former President Suharto and convicted of arranging the killing of a judge, was flown aboard a helicopter to stay in the luxury Kartika Pavillion Suites at the Gatot Subroto Army Hospital for 6 days. Tommy Suharto did not appear for seven court appearances for health reasons. A team of 10 doctors detected a possible tumor behind Suharto's left eye and a stomach ulcer but ultimately declared him able to conduct normal activities.

Prison authorities held female inmates separately from men but in similar conditions. Most children convicted of serious crimes were sent to juvenile prisons. However, until they were convicted, most juveniles were held with adults at detention centers. 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 ICRC made some visits to prisoners during the year.

#### d. Arbitrary Arrest or Detention

The Criminal Procedures Code contains provisions against arbitrary arrest and detention but lacks adequate enforcement mechanisms, and authorities routinely violated it. The Code provides prisoners with the right to notify their families promptly, and it 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. No reliable statistics existed on how many arbitrary arrests and detentions took place during the year.

The President appoints the Indonesian National Police Chief, subject to DPR confirmation. The Police Chief reports to the President but is not a full member of the Cabinet. The Indonesian National Police consist of approximately 250,000 officers deployed to each of the 33 provinces. Despite decentralization, the police have largely maintained their centralized hierarchy, in which local police forces formally reported to the national headquarters rather than to local governments.

During the year, police generally improved their professionalism and effectiveness at fighting crime, and they succeeded in apprehending a large number of suspects in terrorist attacks. Overall professionalism of the police remained low, as did respect for human rights and effectiveness at investigating human rights abuses. Impunity and corruption remained significant problems. The extent of wrongdoing within the nation's police forces was difficult to gauge. Police commonly extracted bribes, from minor payoffs in traffic cases to large bribes in criminal investigations. According to police, 36 members of the national police force were investigated for human rights violations during the year. Punishments varied from demotion to criminal prosecution.

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 Criminal Procedures Code 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 Criminal Procedures Code 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. Kontras reported that in Aceh such detentions occurred frequently because of suspected connections with GAM members. According to HRW, 60 percent of arrests in 2003 were made without a warrant. Additionally, none of the 35 detainees in Aceh that HRW interviewed during the year reported being shown an arrest warrant when they were arrested in 2003. The authorities rarely granted bail. The authorities frequently prevented access to defense counsel during investigations and limited or prevented access to legal assistance from voluntary legal defense organizations. At least one person died in custody during the year.

# visited 12/18/1008

The 2002 terrorism decree and the March 2003 antiterrorism law allowed the use in court of evidence from wiretaps, video recordings, and other surveillance. The Government applied this law in the cases of at least five individuals associated with the GAM. They included former negotiators Teuku Kamaruzzaman, Teuku Muhamad Usman, Amni bin Ahmad Marzuki, Sofyan Ibrahim Tiba, and Nasiruddin bin Achmed. In October 2003, the Banda Aceh District Court convicted the five for acts of terrorism and sentenced them to between 12 and 15 years in prison. On June 1, the Supreme Court rejected their appeal.

There were no reports of political detainees during the year.

## e. Denial of Fair Public Trial

The Constitution provides for judicial independence. In practice, the judiciary became increasingly independent but remained heavily influenced at times by the executive branch. The judiciary also continued to be influenced by military, business interests and politicians. On April 1, as required by law, the Justice Ministry transferred administrative and financial control over the judiciary to the Supreme Court. The new constitutional court demonstrated significant independence and, in some major cases, ruled against the Government. Previously, judges were civil servants employed by the executive branch, which controlled their assignments, pay, and promotion. Low salaries continued to encourage corruption, and judges were subject to pressure from government authorities, which often influenced the outcome of cases. In August, the TNI transferred administrative control of the military courts to the Supreme Court.

Under the Supreme Court is a quadripartite judiciary of general, religious, military, and administrative courts. The law provides for the right of appeal, sequentially, from a district court to a high court to the Supreme Court. 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 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, and it often was heavily influenced by the executive branch.

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. Judges rarely reversed initial judgments in the appeals process, although they sometimes lengthened or shortened sentences. Both the defense and prosecution can appeal verdicts.

The law presumes that defendants are innocent until proven guilty. It also permits bail, which was used in practice 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 Criminal Procedures Code gives defendants the right to an attorney from the time of arrest and at every stage of examination. The law requires counsel to be appointed in cases involving capital punishment or a prison sentence of 15 years or more. In cases involving potential sentences of 5 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, but in practice, few actually obtained the services of an attorney. In many cases, authorities quietly persuaded defendants not to hire an attorney. In many cases, procedural protections, including those against forced confessions, were inadequate to ensure a fair trial.

Widespread corruption continued throughout the legal system. In October 2003, the World Bank reported that endemic corruption was compromising law and order. Bribes influenced prosecution, conviction, and sentencing in countless civil and criminal cases. Most judges earned \$200 to \$225 (1.8 million to 2.03 million rupiah) per month, while a judge with three decades' experience earned approximately \$660 (5.94 million rupiah) per month. Key individuals in the justice system not only accepted bribes but appeared to turn a blind eye to other government offices suspected of corruption. During the year, the Supreme Audit Agency (BPK) named the AGO as the state institution with the most "irregularities" in its use of state funds. In 2003, BPK repeatedly accused the AGO and police of not following up on cases of suspected corruption that had been referred to them, stating that, since 2001, the BPK had reported 6,162 cases of suspected corruption to the AGO and police but that only 505 cases--approximately 8 percent--had been investigated by both offices.

In August 2003, the Legal Review journal investigated the buying of verdicts in corporate civil lawsuits at district courts, high courts, and the Supreme Court. Based on information obtained from leaked corporate memos and other sources, the Review published a list that estimated the "price of victory" in a court case from as little as \$8,300 (74.7 million rupiah) at the Bandung District Court to as much as \$600,000 (54 billion rupiah) at the Supreme Court.

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, even 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.

# visited 12/18/1008

Military prosecutors, like military judges, were managed administratively by the TNI but were responsible to the AGO and the Supreme Court for the application of laws. However, under the "one roof system" adopted by the judiciary during the year, administrative control of military and religious courts was scheduled to transfer gradually to the Supreme Court. Trials are conducted before a three-person panel of military judges. Appeals are made to the Military High Court; such appeals may question matters of fact or law. A Military Supreme Court bases its rulings only on the application or interpretation of law. Some civilians complained about the brevity of prison sentences handed down by military courts. TNI legal officials responded that all troops sentenced to terms of 3 months or longer were discharged from the armed forces, regardless of their record or length of service, and claimed this constituted a significant punishment.

Gross human rights violations can be adjudicated by four district courts. The law provides for each court to have five members, including three noncareer human rights judges, who are appointed to 5-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.

In August 2003, the Ad Hoc Human Rights Tribunal for East Timor concluded its trial phase in Jakarta with the conviction of Major General Adam Damiri of crimes against humanity. Damiri, who remained free on appeal, became the 6th of 18 tribunal defendants convicted in connection with atrocities that occurred during April 1999 and September 1999 in 3 East Timor locations: Liquica, Dili, and Suai. On July 29, the Jakarta High Court overturned the convictions of Damiri, Noer Muis, Hulman Goeltom, and Sudjarwo. This court later acquitted and freed Abilio Jose Soares, who was the only convict to have served prison time. The sentence of Eurico Guterres was reduced on appeal from 10 years to 5 years in prison. He appealed the case to the Supreme Court and, at year's end, remained free. Subsequently, the AGO appealed to the Supreme Court to review the Jakarta High Court's decision to overturn the convictions of Noer Muis, Hulman Goeltom, Sudjarwo, and Guterres. The AGO also appealed to the Supreme Court to review the district court's decision to acquit Tono Suratman. All five cases were under review at year's end. 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. The U.N. stated its intention to send out a Commission of Experts to evaluate the Ad Hoc Tribunal and Serious Crimes Unit and to recommend next steps for achieving accountability. As a possible alternative to a Commission of Experts, the Governments of Indonesia and East Timor agreed in December to form a bilateral Truth and Friendship Commission to address accountability.

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 Major General Pranowo; retired Army Major General Rudolf Adolf Butar-Butar; Army Major General Sriyanto Mutrasan, the commander of Army Special Forces (Kopassus); and other high-ranking active or former military officers. 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, far less than the 10-year sentences that prosecutors had requested. At year's end, all 14 convicted persons remained free as the high court considered their appeals. Some Tanjung Priok victims reported that they had received death threats from soldiers at the courthouse. Some of the defense teams argued that charges of crimes against humanity were unfairly being applied retroactively to their clients. The tribunal generated considerable domestic interest as the first human rights court to hear a case involving crimes against humanity committed during Suharto's rule.

In March, the Supreme Court confirmed the acquittal of suspected JI leader Abu Bakar Ba'asyir on treason charges and reduced his prison sentence for minor immigration charges from 3 years to 18 months. Ba'asyir's critics were upset that he was not convicted on the primary charge of planning treason and stated that his sentence of 18 months was not adequate for the crime. On April 30, police rearrested Ba'asyir as his jail sentence expired. In October, the South Jakarta District Court began proceedings against him on terrorism charges for allegedly authorizing the 2002 Bali bombing as JI "Emir" and for his alleged role in the conspiracy that led to the August 2003 attack on the Marriott Hotel in Jakarta. Prosecutors also charged him with involvement in a foiled plot to attack national police headquarters in Jakarta as well as his connection to an arms and explosives cache that police seized in 2003 in the Central Java town of Semarang. At year's end, the trial remained underway (see Section 2.b.).

In September, 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 the 1999 Press Law rather than the Criminal Code should have been applied 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 the threat of a prison sentence. At year's end, Harymurti remained free pending the outcome of his appeal (see Section 2.a.).

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. 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.

On September 7, 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 in cases where the victim does not consent. Once the commission has resolved a case, it cannot later be filed in human rights court. At year's end, the executive branch had not promulgated the law or established

# visited 12/18/1008

the commission.

On October 12, Supreme Court Chief Justice Bagir Manan inaugurated the first Shari'a (Islamic law) courts in Aceh. Under the new system, 19 district religious courts and 1 court of appeals are scheduled to begin hearing cases. The courts are to hear only cases involving Muslims and use decrees formulated by the Aceh local government rather than the Penal Code but (see Section 2.c.). In the most visible initial effect, authorities began enforcing dress codes for Muslim women.

There were no reports of political prisoners.

## 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 spied on individuals and their residences and listened in on telephone calls. There were reports that the Government occasionally infringed upon privacy rights of migrant workers, particularly women, returning from abroad. Corrupt officials sometimes subjected migrants to arbitrary strip searches, stole their valuables, and extracted bribes at special lanes set aside at airports for returning workers.

Land disputes generated charges of unfair evictions and excessive force by the public security officials. The NGO Jakarta Resident Forum estimated that public security officials evicted at least 20,000 persons during the year, compared with 40,000 in 2003. In Sumatra, local communities involved in the pulp and paper industry reportedly continued to experience persistent human rights abuses, including land seizures, by police and corporate security guards. HRW also alleged that companies such as Arara Abadi routinely seized local residents' land for plantations, with little or no compensation.

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 minority 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. During the year, the program moved at least 87,678 households from overpopulated areas to 369 more isolated and less developed areas in 24 different provinces. The Government sent at least 12,329 households to Central Kalimantan, making that province again the top destination. However, transmigration was far less than during the Suharto era.

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.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and freedom of the press; however, the Government at times restricted these rights in practice. During the year, the Government jailed at least seven peaceful antigovernment protestors convicted of "insulting the President" or "spreading hatred against the Government." In addition, politicians and powerful businessmen more often filed criminal or civil complaints against journalists whose articles they found insulting or offensive. Also during the year, journalists faced increasing threats or violence.

In September, trials of six student and labor activists for insulting the former President during an April 3 demonstration opened in Makassar, South Sulawesi. The defendants were Rudi Hartono, the chairman of the Makassar National Democratic Student League; Ihsar Yatim; Al Ilyas Akbar, director of the Association of the Indonesian Poor; Muhammad Anshar, chairman of the National Front for United Indonesian Labor Unions; Wahida Baharuddin Upa; and Petrus Pice Jailahi, director of the Makassar Legal Aid Institute. On December 23, another student was arrested for insulting the President when he allegedly burned a photograph of Susilo Bambang Yudhoyono.

In Aceh Province, press freedom was severely curtailed during the year. Martial law and civil emergency administrators restricted access by foreign journalists and diplomats, blocked cellular telephones, and forbade contact with the GAM. Journalists in Aceh experienced serious difficulties operating under martial law and the civil emergency. A government decree required that each news coverage activity "be supported by written permission by the head of Aceh's Emergency Military Authority"; however, enforcement of the decree was erratic. In practice, only foreign journalists and local journalists reporting for foreign news organizations were required to obtain the permits. There was

# visited 12/18/1008

no direct censorship, but local journalists were intimidated by army spokesmen's criticism of specific stories, as well as by passionate calls by military commanders for journalists to report "patriotically." Journalists also were concerned that critical reporting could cause them to lose access to military press briefings. Finally, the uncertain security situation limited access to many areas. The Government lifted restrictions on domestic journalists when it ended martial law in May but maintained restrictions on foreign journalists. As a practical matter, journalists in the province appeared reluctant to exercise their press freedoms fully, due to fear of possible reprisals by the GAM or by government authorities. Although foreign journalists were not formally banned from traveling to the Provinces of Papua, Maluku, and North Maluku or to the towns of Sampit, Poso and Palu, the Government issued an appeal for foreign journalists not to enter those areas in particular and often rejected their requests to do so. According to a Jakarta-based broadcasting station, a radio journalist was beaten by Brimob and TNI personnel after being caught interviewing an individual in a military-designated "black area" (areas in Aceh considered to be a GAM stronghold, including North Aceh, East Aceh, Pidie, and South Aceh Provinces).

Journalists faced violence and intimidation from police, soldiers, government officials, rebels, thugs, students, and ordinary citizens. During the year, the Alliance of Independent Journalists (AJI) recorded at least 17 physical attacks against journalists as well as 8 nonphysical acts that included death threats and lawsuits. For example, on July 13, East Nusa Tenggara journalist Benny Djahang was "poked and throttled" by provincial council member John Oga while attending a plenary session of the East Nusa Tenggara Provincial Council. The attack reportedly was in response to a story Djahang had written the previous week detailing the arrest of Oga and two other councilors.

The Government made little or no progress prosecuting those responsible for violent attacks against journalists in Aceh in 2003, including those against TVRI cameraman Jamaluddin, Waspada newspaper journalist Idrus Jeumpa, and 68H radio journalist Alif Imam Nurlambang.

According to AJI, unlike in 2003, there were no reports of journalists expelled from Aceh.

In March 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. On September 14, 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, 2 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 prosecutors' decision to use the Criminal Code on Libel instead of the 1999 Press Law. At year's end, Harymurti remained free pending a high court decision on his appeal.

On December 23, the former general manager of the newspaper Radar Jogja was sentenced to 9 months in jail for defamation after he published articles alleging the general manager of a competing newspaper was sexually harassing a member of his staff. The judge in the case refused to tell the press why he applied the Criminal Code on Libel rather than the available 1999 Press Law.

During the year, government officials filed three other criminal cases against journalists under the same Criminal Code on Libel.

During the year, the Government took no legal action against any person responsible for crimes committed against journalists in 2003. However, 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 an eviction in 2002. Sutiyoso lost his appeal to a high court and appealed to the Supreme Court. The appeal remained under consideration at year's end.

Pervasive corruption among journalists and the lack of an enforceable journalistic code of ethics compromised the integrity of some journalists.

During the year, the Government implemented the 2002 Broadcasting Law, which included measures for issuing licenses for additional frequencies and establishing an impartial broadcasting commission.

Despite numerous incidents of violence and intimidation of the press, there were positive developments. Unity among journalists and their commitment to protect their colleagues appeared to have strengthened. Some members of the press also continued aggressive reporting on such issues as corruption, the conflict in Aceh, and environmental degradation. Regional media increasingly prospered. In addition, moderate Islamic publications increased in number and popularity.

The government-supervised Film Censorship Institute continued to censor domestic and imported movies for content that it deemed pornographic or religiously offensive. In August, the institute ordered the local movie "Kiss Me Quick" pulled from cinemas after religious leaders complained that it would encourage young persons to have sex.

By law, Communist teachings cannot be disseminated or developed.

# visited 12/18/1008

The Government did not restrict Internet use or content.

The law provides for academic freedom, and the Government respected this provision.

## b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government restricted this right in certain areas. The law generally does not require permits for public 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.

During the year, police used excessive force at a number of demonstrations. For example, on May 1 in Makassar, South Sulawesi, police forcibly entered the campus of the Indonesian Muslim University and injured 65 students demonstrating against the arrest of radical Muslim cleric and suspected JI leader Abu Bakar Ba'asyir. Demonstrators reportedly had taken a police officer hostage on the campus and had attacked two others. The violent police response led to the dismissal of the regional police chief and several other senior officers. Police investigated the incident and named 22 police suspects, 8 of whom were convicted for collective violence in public and sentenced to between 7 and 12 months. On February 26, police forcefully broke up a peaceful demonstration by the Bandung Student Executive Body. Dozens of students were injured, 23 of whom were taken to the hospital.

In July, the treason trial of 17 alleged activists of the Maluku Sovereignty Front began over the April separatist rally that sparked renewed violence. In August, the Ambon District Court began the trials of 36 others charged with treason in relation to April and May rallies that ended in violence.

There were reports of counterprotesters violating the right to peaceful assembly in the case of labor disputes.

The Government did not report any progress in prosecuting those responsible for the 2002 forcible dispersal by Jakarta police of participants in a massive rally against the reelection of Governor Sutiyoso. Similarly, no arrests were made in connection with the distribution of food containing cyanide at the same rally. In addition, no arrests were made regarding the 2002 attack in the Central Java city of Semarang on two antipoverty activists by persons who claimed to be members of the ruling PDI P, nor were arrests made in connection with the March 2003 attack on students in East Java by PDI-P members.

The Constitution provides for freedom of association; however, the Government restricted the exercise of this right in areas of separatist conflict. Although the Papua Special Autonomy Law permits flying a flag symbolizing Papua's cultural identity, police prohibited the flying of the Papuan Morning Star flag, identified with the armed separatist struggle.

There were reports of restrictions on peaceful assembly in Aceh, where NGOs and activists faced strict restrictions on their activities during martial law and the civil emergency. Organizers of events frequently were required to submit in advance the names of speakers and the text of their speeches for approval, which was frequently denied. This led to caution and self-imposed restrictions by those organizing events. Outside of Banda Aceh, the province remained closed to foreigners. In April, police dispersed a group of university students demonstrating in conjunction with SAMAN (Solidarity for Acehese Students Nusantara) to demand an end to martial law; police arrested a coordinator of the demonstration but later released him. The security forces continued to enforce a prohibition on flying the GAM flag in Aceh. Political rallies and meetings in conjunction with the legislative and presidential elections were allowed and occurred without significant incident.

At year's end, Muhammad Nazar, chairman of SIRA, remained in detention. Nazar was arrested in February 2003 for planning a public rally in Lhokseumawe.

## c. Freedom of Religion

The Constitution 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, it 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 the 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. Hindus, 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.).

# visited 12/18/1008

Men and women of different religions experienced difficulties in marrying and in registering a 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.

Foreign missionaries who obtained visas generally were allowed to work without serious restriction.

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.

In March 2003, in Aceh Province, the Government began implementation of Shari'a by issuing a presidential decree establishing Islamic law courts. On October 12, 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 were scheduled to begin hearing cases. The courts were to hear only cases involving Muslims and not use the Penal Code but rather "qanuns," decrees formulated by local governments. The Lhokseumawe city government established qanuns for that city and began recruiting Islamic law monitors, down to the village level. The qanuns covered issues such as "immoral behavior." For example, extramarital contact between a man and woman would be punishable by public lashings or a fine of up to \$555 (4.9 million rupiah). Other qanuns banned gambling and the production, distribution, or consumption of alcohol. A Muslim found guilty of consuming alcohol would receive 40 lashes. Some in Aceh worried that implementation of Shari'a would provide new powers to already-distrusted law enforcement institutions and provide opportunities to intrude on private religious matters, such as whether an individual attends Friday prayers.

Women's groups helped to draft local regulations to avoid provisions that might restrict women's rights. However, because there were no women in the Aceh Consultative Assembly except secretaries and other lower-ranking service positions, women remained largely marginalized. During the year, jilbab (headscarf) inspections by various groups were frequent. There was a three-step process for women in violation. After issuing two written warnings, authorities referred the matter to a Shari'a court. In Banda Aceh, police took women in improper Islamic dress and detained them for brief periods 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 (see Section 5). Some women told reporters that they felt humiliated when detained for dress code violations.

In some municipalities, local leaders applied stricter Islamic practices. For example, in the West Java regency of Cianjur, a local regulation required all Muslim civil servants to wear Islamic clothing every Friday and attend congregational noon prayer. Virtually all women complied with the regulation, and women's groups, including Women's Solidarity (Solidaritas Perempuan), stated that women were afraid not to comply. On January 12, the mayor of the Jakarta suburb Tangerang ordered public employees to wear Islamic clothing on Fridays. In Bulukumba, South Sulawesi, the regent instituted limited Shari'a laws that forbade alcohol and required the wearing of Islamic clothes and obligatory daily Muslim prayers. However, these regulations applied only to Muslims and were not enforced.

As in previous years, during the Muslim fasting month of Ramadan, many local governments ordered either the closure or limited operating hours of various types of "entertainment" establishments. For instance, on October 9, 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.

Political and economic tensions between Christians and Muslims in the eastern provinces of Central Sulawesi, Maluku, and North Maluku continued to cause sectarian violence, resulting in unlawful killings (see Section 1.a.).

During the year, more than 10 churches were attacked, compared with 7 churches in 2003. In addition to attacks in the capital cities of Central Sulawesi and Maluku, there were attacks in the West Java communities of Purwodadi, Margahayu, Tangerang, Bogor, Banten; the Jakarta communities of Ciputat and Pamulang; and the Central Java city of Yogyakarta. Attacks consisted of vandalism, arson, shootings, mob violence, and forced closures. One mosque was destroyed in Maluku during the year.

Due to renewed violence in Ambon in April and May, interreligious tolerance and cooperation between Christians and Muslims in Maluku, North Maluku, and Central Sulawesi remained poor. In the Moluccas, local governments continued to reunite many government offices that since 1999 had separated into Christian and Muslim units.

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

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

# visited 12/18/1008

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 through a system of "travel letters," which were required for travel within Maluku, Aceh, and Papua. Enforcement was inconsistent.

On May 19, then President Megawati issued a decree ending martial law in Aceh and establishing a state of civil emergency, which remained in effect at year's end. The decree returned overall government authority for the province to the governor, but the Provincial Civil Emergency Administration (PDSD), headed by the provincial chief of police, maintained power to issue emergency measures to control travel, trade, transport, and other civilian activities.

The Government instituted new controls on the movement of residents in Aceh by issuing new national identity cards specific to Aceh. These cards required the signatures of the holder's local military commander, local police chief, and village head. Acehnese who wished to travel or leave the province had to produce these cards at security checkpoints along main highways. Failure to produce the card was cause for arrest. In practice, the cards were easily obtained, and there was no evidence that the policy resulted in restriction of movement. In Aceh, those outside Banda Aceh also had to obtain from police a travel letter that described the purpose and length of trip and also name the persons the traveler would meet. In conflict areas, individuals also were required to report to police to leave villages to fish, tend fields, or leave their village, which significantly hindered their ability to earn a livelihood.

The Government also controlled movements to close avenues of supply to GAM rebels. In the remote Lokop District of East Aceh, home to 30 villages and a heavy rebel presence, TNI units monitored and controlled food shipments moving in and out of villages and limited shipments to TNI-linked suppliers. Soldiers also limited the amount of food each family could purchase, which resulted in malnutrition, according to the Aceh branch of Kontras. In addition, troops reportedly restricted the hours that fishermen could fish and the hours that rice farmers could work in their fields.

In Central Kalimantan, where ethnic violence in 2001 prompted approximately 130,000 ethnic Madurese migrants to leave, mainly to Madura and East Java, at least 45,000 voluntarily returned to Kalimantan. However, in the interim, a number of regency governments, including those of Barito Utara, Barito Selatan, and Kotawaringin Barat, had introduced regulations that prohibited the return of ethnic Madurese unless they could prove they had previously lived in the area and did not have a criminal record. Relations between Madurese and indigenous Dayaks remained poor. The West Kalimantan city of Sambas remained effectively inaccessible to its former Madurese residents.

The Government prevented at least 412 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, while others were involved in legal disputes. There were reports of the Government barring the exit of some foreigners without proper application of the law.

In June, the Government expelled Sidney Jones, country director for the international NGO International Crisis Group (ICG) (see Section 4).

The Constitution prohibits forced exile, and the Government did not use it.

The country continued to make progress reducing the number internally displaced persons (IDPs). The U.N. Office for the Coordination of Humanitarian Affairs (OCHA) estimated that there were 1,478,736 IDPs in the country during the year, compared with 587,000 in 2003. OCHA reported that there were 6,946 IDPs in Aceh as of June, but this number increased considerably as a result of the December 26 tsunami. According to the Coalition of NGOs for Aceh and Kontras, there were still two refugee camps in Aceh before the tsunami. The Government's military operation in Aceh did not produce a large flow of IDPs outside the borders of the province. Some 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 IDPs' needs. In theory, IDPs had three options: Return to their place of origin, start anew in their current location with the Government's assistance, or resettle through a relocation program. In some cases, including in North Sumatra, governmental assistance amounted to a one-time payment of approximately \$1,000 (9 million rupiah) per family.

In June 2003, on the North Maluku island of Ternate, thousands of IDPs who claimed that the governor had stolen aid earmarked for their return to Halmahera Island clashed with police and soldiers. No injuries were reported. On September 24, the Ambon District Court began hearing the trial of Husni Lessy, head of organizational guidance and social assistance at the Maluku Social Welfare Office. Lessy, who was responsible for the distribution of rice to IDPs from January to September 2002, faced charges of demanding "commissions" before distributing rice. He was accused of demanding more than \$18,888 (170 million rupiah) in kickbacks and costing the State as much as \$555,555 (4.1 billion rupiah) in losses. NGO activists who worked with IDPs reported that, in conflict areas, the Government was doing little or nothing to see that compensation was provided for losses suffered or that justice was done to those responsible. Activists reported that IDPs were vulnerable to trafficking in persons, and others warned that widespread violence could re-ignite at any time in some regions.

Although the law does not include provisions for granting refugee status or asylum to persons who meet the definition in the 1951 U.N.

# visited 12/18/1008

Convention Relating to the Status of Refugees or its 1967 Protocol, there were no reports of the forced return of persons to a country where they feared persecution. The Government cooperated with the U.N. High Commissioner on Refugees (UNHCR), which maintained an office in Jakarta. At year's end, there were 113 U.N.-recognized refugees and 60 asylum seekers living in the country. Some were applicants and others were dependents. Most were from Iraq, Afghanistan, or Somalia. Some of the refugees had been accepted by Western resettlement countries but had not yet departed.

The above figures did not include approximately 10,000 former refugees from East Timor who resided in West Timor at year's end. In 2003, the Government and UNHCR stated that the remaining East Timorese in West Timor would no longer be considered refugees. Most of these former refugees resided in makeshift camps in the West Timor regencies of Atambua and Kupang. Many of these individuals did not want to return to their homeland; others wanted to return but apparently felt constrained by those opposed to returning. According to the labor rights group Jakarta Solidarity Center, hundreds of Burmese fishermen, refugees apparently forced to work on Thai fishing boats, either escaped or were abandoned in Tual, a small island in Maluku, where they lived in difficult conditions. Immigration officials forcibly repatriated a number of Burmese fishermen via foreign fishing vessels.

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

During the year, the implementation of several constitutional amendments increased the ability of citizens to change their government. The Constitution 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. They exercised this right in peaceful legislative elections on April 5 and the country's first direct presidential election on July 5, with a second round on September 20, when Susilo Bambang Yudhoyono defeated the incumbent President Megawati. The Constitution provides for general elections every 5 years. During most of the year, the police and armed forces continued to hold 38 appointed seats jointly in the DPR and 10 percent of the seats in provincial and district parliaments; however, in accordance with a 2002 amendment to the Constitution, the security forces lost their appointed DPR seats in October with the inauguration of the new legislature. DPR members automatically are members of the MPR, which until October included regional and government appointed representatives. On October 1, 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).

Domestic and international observers monitored the legislative and presidential elections, organized by an independent election commission, and considered the elections largely free and fair.

The MPR can amend the Constitution and issue decrees, functions it performed in the first of its "annual sessions," held in 2000. A key demand of the post-1998 reform movement was an overhaul of the 1945 Constitution, which was seen as having fostered the development of past authoritarian regimes. In the First Amendment of the Constitution, the 1999 MPR passed curbs on executive power, including a limit of two 5-year terms for the President and Vice President. In 2000, the MPR adopted the Second Amendment, which contained many important changes, including provisions for protection of human rights, regional autonomy, and further separation of powers. During its 2001 session, the MPR amended the Constitution to provide for direct presidential and vice-presidential elections, a bicameral legislature with a regional representatives chamber, and a Constitutional Court with the power of judicial review of legislation, certain election disputes, and impeachment proceedings. This court was inaugurated in 2003. In 2002, the MPR approved the Fourth Amendment, which requires presidential and vice-presidential candidates to run together on a single ticket. It provides for a second round of direct voting if no candidate receives a majority of votes cast and at least 20 percent of the vote in half of the provinces. The MPR retained authority to amend the Constitution but was no longer empowered to establish broad guidelines of state policy. The constitutional changes also restricted the MPR's authority to impeach the President. The 1999-2002 amendments make the President and the Vice President directly accountable to the electorate.

All adult citizens are eligible to vote except active duty members of the armed forces, convicts serving a sentence of 5 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 Constitutional Court ruling during the year, they may now run for office. This ruling marked an important step forward in restoring the basic rights of victims of Suharto's New Order regime.

There was a widespread domestic and international perception that corruption was a part of daily life when dealing with authorities in the executive and legislative branches. The need to tackle corruption was a high-profile issue in the year's election campaign. President Susilo Bambang Yudhoyono bemoaned that corruption was "systemic" to the country, and this was a major focus of his administration's initial 100-day program.

Two versions of a Freedom of Information act were before the DPR for consideration at year's end: One represented a governmental draft, and the other contained NGO input. Despite the absence of such a law, the AJI reported no problems obtaining unclassified public documents from the Government. The exception to this rule was in Aceh, where information could be obtained only from the TNI Media Center.

There were no legal restrictions on the role of women in politics. A woman, Megawati Soekarnoputri, served as President until October, when Susilo Bambang Yudhoyono was inaugurated as President; however, under President Megawati, women accounted for only 2 of the 33 cabinet ministers and 8 of the 45 Supreme Court justices. On October 20, President Yudhoyono appointed women to 4 of his Cabinet's 36

# visited 12/18/1008

seats. In February 2003, the DPR passed an election law that included a nonbinding call for parties to select women for at least 30 percent of the candidate slots on their party lists. In this year's 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 comprised 27 of the 128 members.

There were no legal restrictions on the role of minorities in politics. There were 365 members of minorities (defined as persons from outside of Java and neighboring Madura Island) in the 500-seat outgoing DPR. There were no statistics for the 2004-09 DPR. There were 12 members of minorities in President Megawati's 33-member Cabinet. While most of Megawati's cabinet members were Javanese, Sundanese, or Madurese, minority members were of Bugis, Batak, Acehnese, Minang, Flores, Balinese, Banjar, Arab, or Chinese heritage. President Yudhoyono's Cabinet also consisted of a plurality of Javanese, with others being of Sundanese, Bugis, Batak, Acehnese, Papuan, Balinese, Arab, or Chinese heritage.

In Papua, the Government's plan to divide the province into three continued to generate significant opposition from NGOs, religious leaders, community leaders, and the Papuan governor. Legislation called for the creation of the two additional provinces of West Irian Jaya and Central Irian Jaya. However, the subsequent 2001 Law for Special Autonomy in Papua makes clear that partition is possible only with approval of the Papuan People's Council (MRP) and the Papuan legislature. Nevertheless, the Government established the West Irian Jaya Province, although it delayed creation of Central Irian Jaya. On November 11, the Constitutional Court annulled the 1999 law partitioning Papua into three provinces but ruled that West Irian Jaya could continue to exist, since it was functioning in accordance with constitutional principles. In December, President Yudhoyono issued a decree authorizing the creation of a 40-member Papuan People's Council. The council would have input into the appointment of the governor and deputy governor of Papua Province, as well as provincial-level legislation affecting indigenous Papuans. The council would consist of one-third religious figures, one-third representatives of tribal organizations, and one-third women's groups. However, the central Government reserved veto power over candidates for the MRP whom it deemed objectionable.

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

Domestic human rights organizations reported being subject to monitoring, harassment, and interference by the Government; however, they remained active in advocating improvements to the Government's human rights performance. Komnas HAM reported that, since 2000, 14 human rights activists had been killed and that no perpetrators been brought to justice. However, there were no reports of any human rights activists killed during the year. Many NGOs, particularly those in Aceh, accused security forces of obstructing their activities. Unlike in the previous year, there were no reports that organized groups attacked members or offices of NGOs.

In Aceh, NGOs experienced intense government interference. The security forces repeatedly summoned domestic NGO activists for questioning regarding possible links to the GAM, which prompted between 100 and 200 activists to leave the province. The Government effectively prohibited foreign humanitarian aid workers from the province, except for a limited number attached to U.N. agencies. According to AI, once the provincial governor took over as head of the Civil Emergency Authority, he extended existing restrictions on international humanitarian organizations. Access reportedly was especially poor in those regions designated by the military as "black areas." AI believed that some of these areas had not been accessed by independent humanitarian organizations since May 2003.

The Government criticized NGOs that questioned its policies. In June, the former Government expelled Sidney Jones, ICG Country Director. Jones appeared to have been expelled because of the Government's displeasure with her portrayal of its handling of politically sensitive issues (see Section 2.d.).

On June 30, the court ruled in favor of Major General Nurdin Zainal, who in 2003 had sued two persons of the NGO Institute for Human Rights Study and Advocacy (ELS-HAM) and four newspaper editors for defamation. The lawsuit stemmed from a press conference ELS-HAM held in the wake of a 2002 ambush near Timika. ELS-HAM appealed the verdict.

There was no progress in the case of six FBR members involved in a 2002 attack against activists of the Urban Poor Consortium at the Jakarta office of Komnas HAM. The six cases remained on appeal to the Jakarta High Court at year's end. The Government reported no progress in prosecuting the perpetrators of the 2002 shooting in Papua of several family members of Johannes Bonay, executive director of ELS-HAM.

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 some conflict areas. Some domestic human rights organizations expressed concern about 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 Komnas HAM's 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 over the 1998 riots, which claimed more than 1,200 lives. 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

# visited 12/18/1008

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.

## 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

Violence against women remained poorly documented. Nationwide figures were unavailable, but the NGO Mitra Perempuan-affiliated Women's Crisis Centers (WCC) conducted a 13-city survey from April 2003 to March. WCC found 300 cases of violence against women in Jakarta, 33 in Bandung, 14 in Purwokerto, 25 in Surakarta, 53 in Jombang, 14 in Banda Aceh, 22 in Bengkulu, 25 in Bandar Lampung, 10 in Palembang, 7 in Pontianak, 10 in Manado, 30 in Makassar, and 32 in Kupang. The local press reported that violence against women continued to increase. Two types of crisis centers were available for abused women: Government-run centers in hospitals and NGO centers operated in the community. During the year, the Ministry of Women's Empowerment successfully lobbied for the passage of the Domestic Violence Act, presented the antitrafficking bill to the DPR, and supported the election law's target of 30 percent female candidates for legislative office. The Ministry also worked on issues of child protection, including trafficking.

The Domestic Violence Act that passed in the DPR on September 14 criminalizes domestic violence. Physical violence is punishable by imprisonment for up to 15 years or \$5,000 (45 million rupiah). Psychological violence is punishable by imprisonment for up to 3 years or \$1,000 (9 million rupiah). Sexual violence is punishable by imprisonment for up to 20 years. At year's end, there were no prosecutions.

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

Rapes by members of the security forces were most numerous in Aceh. Human rights activists expressed concern that rapes were underreported in the province, partly because of reluctance by victims to do so. SIRA stated that military personnel committed nine rapes in Aceh but that no cases of rape or sexual harassment had been reported to the authorities. During the year, the TNI prosecuted 15 personnel for rape.

It was unclear whether GAM rebels committed rape during the year, although there were numerous reports that GAM members committed rape in previous years.

Over the past several years, many police stations set up a "special crisis room," where female officers received criminal reports from victims of sexual assault and trafficking, and where victims found temporary shelter.

The Guidelines of State Policy, legal statutes adopted by the MPR, state that women have the same rights, obligations, and opportunities as men. However, the guidelines also state 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 Marriage 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.

Female genital mutilation (FGM), also known as female circumcision, was practiced in some parts of the country, including West Java. The most recent data available, from a 2002 study in areas where FGM was prevalent, indicated that pain, suffering, and complications 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. During the year, the Ministry of Health (MOH) and the Ministry of Women's Empowerment became more engaged in the prevention of FGM and its practice by midwives in clinics. The MOH, World Health Organization, and Ford Foundation planned to sponsor efforts in January 2005 to sensitize and share information regarding the status of FGM practices and to mobilize prevention efforts with the religious community, NGO advocates, and medical providers. The MOH worked on, but did not finalize, an official policy statement prohibiting FGM from being practiced in government clinics by health care providers. The MOH included the prevention of FGM as a subject in training curricula for traditional birthing attendants and midwives.

Prostitution is not specifically addressed in the Penal Code. However, the code refers to "crimes against decency/morality," which many interpret to apply to prostitution. Child prostitution is illegal under the Penal Code and the 2002 Child Protection Act. While contrary to

# visited 12/18/1008

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.

Sexual harassment is against the law. Although it is not explicitly mentioned, sexual harassment is actionable under the Criminal Code. According to a statement during the year by the State Ministry of Women's Empowerment, 90 percent of women and 25 percent of men have been victims of sexual harassment in the work place.

Divorce was open to both men and women. Muslims who sought divorce generally turned to the Islam-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 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 Marriage Law requires a woman who has become divorced to wait a certain period of time before remarrying, while a man can remarry immediately.

The Citizenship 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 when 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 1 year, if desired.

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.

Women faced considerable discrimination in the workplace, both in terms of obtaining positions and in gaining fair compensation for labor performed. In 2003, the International Labor Organization's (ILO) Jakarta office reported that on average, women's earnings were 68 percent of that of men workers. In 2002, the Government stated that 14 percent of women civil servants were in positions of authority, but only 38 percent of all civil servants were women, which meant that only 5 percent of civil servants in positions of authority were women.

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 as 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, in 2002, the unemployment rate was higher for men than for women. If a husband and wife both worked for a government agency, the couple's head-of-household allowance was given to the husband. There were reports that female university graduates received an average salary that was 25 percent less than that of their male counterparts.

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).

## 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 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 January 2003, the leader of the National Commission for Child Protection (Komnas PA) 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 National 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.

Children were casualties in areas of armed conflict. In Maluku, following the anniversary of the RMS movement in April, an unidentified person shot a 9-year-old child in Ambon. AI reported that in May, TNI used children, wives, and other relatives of GAM members from three different villages as human shields. They were instructed by TNI soldiers to hold bags of rice in front of themselves for shielding and walk through the forest ahead of soldiers searching for GAM members. The operation lasted from May 16 through May 18. According to AI, the TNI also used children to spy, cook, clean, and communicate. Local NGOs reported to AI that the GAM also used children, forcing them to act as informants, participate in arson, collect "taxes," cook, and provide supplies. In addition, the GAM reportedly used teenagers as combatants.

A newly established police child welfare hotline recorded a total of 576 cases of violence against children in East Java in the first 3 months of the year. The increase in reported cases was likely the result of this new, more effective reporting mechanism rather than a reflection of a dramatic increase in actual cases of violence against children. Police received reports of domestic violence, sexual violence, and neglect.

# visited 12/18/1008

By law, children are required to attend 6 years of elementary school and 3 years of junior high school; however, in practice, the Government did not enforce these requirements. According to 2002 UNICEF data, school enrollment rates were 96 percent for children ages 7 to 12, 79 percent for children ages 13 to 15, and 49 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 afford to send their children to school. Including tuition, transportation costs, and school materials, primary and secondary schools could cost a family between \$444 and \$778 (4 million to 7 million rupiah) per year for each student. It was unclear how many children were forced to leave school to help support their families. In some areas of the country, parents and watchdog groups complained that corruption among public servants severely undermined the quality of education. Indonesian Corruption Watch reported that some principals in East Java, West Java, and North Sumatra bribed Education Ministry officials to secure funding for their schools.

During the year, conflicts or the lingering effects of conflicts disrupted the education of some children. For example, during the renewed sectarian conflict in Ambon, Maluku, two Islamic schools were destroyed and several others were temporarily closed due to unsafe conditions. In Aceh Province, more than 603 school buildings were burned following the introduction of martial law in May 2003. The Government rebuilt 328 of these schools during the year; however, several hundred schools were destroyed by the December 26 tsunami.

Many children grew up in poor health conditions. Malnutrition remained a serious problem. The country's infant mortality rate remained high. According to the Indonesia Demographic and Health Survey published in December 2003, there were 35 deaths for every 1,000 live births. There was improvement in under-5 mortality, but a lack of improvement in infant mortality led the Government to increase its focus on newborn healthcare.

The number of street children across the country was unknown. Komnas PA estimated 50,000 nationwide, while a 2002 Family Health International study estimated the number at nearly 71,000. During the year, an NGO estimated the number of street children in the 12 largest cities had decreased slightly.

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 8,000 street children, many reportedly susceptible to sexual abuse and violence. Approximately 40 shelters in the province provided services to such children. In August 2003, the Jakarta city government announced that it would establish a dormitory housing between 600 and 1,000 street children. The city government also agreed to pay for the children's schooling and provide a stipend of approximately \$58 (522,000 rupiah) to the children's parents to help them set up home businesses. The shelter had not been opened by year's end. The Government continued to provide some shelters throughout the country, administered by local NGOs, and paid for the education of some street children. One NGO estimated that 5,000 children lived in these shelters. During the year, the Government designated \$1 million (9 million rupiah) to alleviate the problem of street children in Bandung, West Java, but the program was unsuccessful, reportedly due to corruption.

Commercial sexual exploitation of children continued to be a serious problem. The number of child prostitutes in the country was unclear; however, an ILO assessment estimated there were approximately 21,000 child prostitutes on the island of Java. In October 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, including 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 the Surabaya Social Department, of the 6,703 sex workers in that city and its environs, 30 percent were under the age of 18. There also were reports of sexual exploitation of boys. NGOs reported long-active pedophile rings operating in Bali, and authorities arrested, tried, and convicted at least one man, an Australian, 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 abuse is prohibited by law, but government efforts to combat child abuse 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.

Child labor was a problem. In January 2003, the ILO reported that 8 million children under 18 were doing the work of adults (see Section 6.d.).

During the year, the Government began implementing a 1997 juvenile justice law that called for the creation of a juvenile court system. In

# visited 12/18/1008

cities where a juvenile court had not been established, ordinary courts adjudicated such cases. On August 13, Supreme Court Chief Justice Bagir Manan inaugurated the country's first juvenile court, located in Bandung, West Java. Komnas PA reported that more courts were starting to involve social workers in children's trials but that financial constraints kept social workers from being available at all such trials.

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 Penal Code and the 2002 Child Protection Act; however, these laws are not comprehensive in their 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.

In 2002, a national action plan to counter trafficking of women and children was approved by presidential decree. It identifies specific roles for the Government and civil society at both the national and local levels, and it includes 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 trafficking in persons. During the year, the Government finalized a comprehensive antitrafficking bill, and President Megawati submitted the bill to the DPR in August. The Government, with the help of NGOs, conducted public education efforts on trafficking. In January, North Sulawesi Province enacted the country's first broad province-level antitrafficking in persons law. On September 30, the DPR passed legislation concerning the protection of migrant workers and the law on domestic violence.

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, police and prosecutors continued to use the Penal Code against traffickers because they lacked familiarity with the relatively new Child Protection Act. However, the number of prosecutions based on the act increased. In the past, judges rarely sentenced traffickers to more than 3 years in prison. However, during the year, judges imposed increasingly heavy sentences on child traffickers, with some convictions resulting in 5- or 6-year jail terms. On September 16, a North Sumatra court sentenced Desi Prisanti Siregar to 13 years in jail for the trafficking of nine young women and girls into the sex trade in Malaysia.

Reliable figures were not available on the number of persons trafficked. A study by the Solidarity Center and ICMC estimated there were between 2.4 and 3.7 million women and children who 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 254,000 to 422,000. These were not estimates of victims but rather of women and children vulnerable to trafficking.

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.

During the 12-month period ending in February, police investigated 125 cases of trafficking in women and children, involving 160 traffickers and 85 victims. Police submitted 67 of these cases for prosecution. At least 25 suspects were convicted. During the year, trafficking convictions increased to approximately 35 convictions, according to preliminary data.

In June and July, police arrested six traffickers identified as the Rizal gang, reportedly responsible for selling hundreds of women as prostitutes in Malaysia. A Jakarta court convicted the six gang members in November but sentenced them to only 4 or 5 months in jail.

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 slavery-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.

Many trafficking 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 3-month course that all police officers received did not include training on countertrafficking in persons. During the year,

# visited 12/18/1008

international agencies continued to provide police with specific training with regard to trafficking. Trafficking falls under the purview of the Criminal Investigation Department (CID). In 2003, the police established a separate antitrafficking unit within CID with operational and coordinating responsibilities. As a result, coordination within the police force and between the police and other interested departments on trafficking in persons improved somewhat during the year.

The national police headquarters issued new instructions to district police chiefs to break up trafficking rings, assist victims, and report cases to national headquarters. However, 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. 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 2003, the Government cooperated with Australia in investigating a trafficking ring sending Indonesian women into sexual servitude in Australia. Bilateral police cooperation led to the trial of at least one trafficker in Australia and the arrest of others in Indonesia. The Government also cooperated with Malaysia to investigate trafficking.

The Government at various levels and to varying degrees assisted victims of trafficking, both domestically and abroad. National- and local-level assistance efforts 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 for trafficking victims, including shelters in Batam, Riau Islands. The police increased the number of police 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 level of 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 sex workers as criminals, subjected them to detention, and took advantage of their vulnerability to demand bribes and sexual services. 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. The Government reported that 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 law mandates access to buildings for persons with disabilities; however, the Government did not enforce this provision. The Disability 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. The law also mandates accessibility to public facilities for persons with disabilities; however, extremely few buildings and virtually no public transportation facilities provided such accessibility. Recent statistics on the number of persons with disabilities were not available. In 1999, the U.N. estimated the percentage of such persons at 5.4 percent of the population, or approximately 12 million persons; the Government put the number at 3 percent, or approximately 7 million persons. 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.

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 other cases, the space reserved for wheelchairs was occupied by other passengers because the bus conductors could earn more money.

In 2003, the Government stated the country was home to 1.3 million children with disabilities but only 50,000 of them attended school. The true number of such children 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 their 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 700 schools dedicated to educating children with disabilities; all but 41 of them were run privately. Some young persons with disabilities

# visited 12/18/1008

resorted to begging for a living.

## 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 Indonesians declined compared with previous years. On April 14, then President Megawati publicly called on Immigration officials to stop asking ethnic Chinese citizens for a Republic of Indonesia Citizenship Certificate (SBKRI), a document not required of non-Chinese citizens; however, many ethnic Chinese citizens reported they were still frequently asked to show one. An attorney advocate for the rights of ethnic Chinese stated 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.

In September 2003, approximately 50 ethnic Chinese families in the West Java city of Tangerang protested in front of the Tangerang Council building over the alleged sale of land traditionally used as a Chinese cemetery. The families complained that the sale of the land for a commercial development prevented them from being able to bury their dead beside loved ones. City councilors agreed to review the case, but there were no developments by year's end.

During the year, some ethnic Chinese citizens complained that the Government had not done enough to prosecute those responsible for the 1998 violence against them and their businesses.

In Papua, TNI authorities estimated the number of OPM guerillas at 620. These guerillas were poorly armed with an estimated 150 weapons ranging from modern M-16s to outdated Mausers. Indigenous Papuans complained that they were underrepresented in the civil service of that province; however, due largely to the partial implementation of the Special Autonomy Law and the creation of 14 new regencies in Papua, there was a large increase in the number of government positions for ethnic Papuans.

Unlike in 2003, there were no reports of overt discrimination against Acehnese outside the province. However, some Acehnese reported that they were not comfortable saying they were from Aceh, faced extra scrutiny when trying to leave the country, and resented having a different identity card.

## 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 such groups as 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 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 stop domestic and multinational companies, often in collusion with the local military and police, from encroaching on indigenous people's land.

In Sumatra, where there were many lowland tropical forests, corporate interests continued to take over lands traditionally claimed by indigenous communities, who relied on them for rice farming and rubber tapping. HRW and other NGOs reported that the creation of huge plantations to serve the paper and pulp industry threatened the livelihoods of many indigenous people. Some indigenous people unsuccessfully filed land claims with the authorities. In 2003, in the Sumatran subdistrict of Porsea, local citizens and environmental groups, including WALHI, condemned the Government's decision to reopen a pulp company, PT Toba Pulp Lestari (formerly PT Indorayon), which was closed in 2002. The company's pulp mills were blamed for far-reaching environmental degradation, and at least five persons involved in the dispute had been killed in recent years. Komnas HAM noted that both sides in the dispute had committed significant human rights violations.

Unlike in previous years, indigenous peoples in Sulawesi reportedly did not protest development projects in their traditional lands.

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 45,000 displaced ethnic Madurese returned to Central Kalimantan during the year. 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.

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,

# visited 12/18/1008

such as parts of Sulawesi, the Maluku, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were hostile. Some indigenous groups claimed that they received less government support than transmigrants, and some transmigrants claimed that in some cases they were moved to areas with undesirable land or where the land's ownership was in dispute.

## 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. 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 2000 Trade Union Act 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 and provides it with a registration number. Under the law, 86 union federations notified the Ministry of Manpower and Transmigration (the Manpower Ministry) of their existence. In addition, more than 18,000 workplace-level units registered with the Manpower Ministry.

According to an ILO estimate made during the year, the country's total labor force consisted of approximately 100 million workers, 42 percent of whom worked in the agricultural and forestry sector. The Government estimated total trade union membership at 9.7 million workers, just below 10 percent of the total workforce. However, if compared to the country's 23.8 million regular employees (a category that excludes the self-employed, employers, casual workers, and unpaid workers), union membership would reach almost 41 percent.

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 5 years in prison. Once a union is dissolved, its leaders and members may not form another union for at least 3 years. There were no reports that the Government dissolved any unions during the year.

In May, a Jakarta court dismissed all charges filed by prosecutors against leaders of the Indonesian Seafarers' Union, thereby upholding their 2001 election. Former Manpower Ministry officials, who led the union during the Suharto era, had convinced prosecutors to argue that the 2001 election was invalid and that former union officials should resume control over the union.

The Labor Union Act prohibits antiunion discrimination by employers and others against union organizers and members, and it 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.

The Indonesia National Workers Struggle Front charged that employers dismissed its officials from at least five companies, allegedly because of their union activities. In March, the Indonesian Prosperity Trade Union Confederation (KSBSI) filed a freedom of association complaint with the ILO regarding PD. Jaya Bersama, a Jakarta company processing birds' nests for Chinese cooking, and its firing of 11 union officials and members allegedly for their union activities. In response, in May the Manpower Ministry conducted a labor inspection that found numerous labor violations, including child labor, but took no corrective action. According to accounts by the Seafarers Union of Burma (SUB), police in Tual, North Maluku, arrested and allegedly beat six Burmese SUB members because of their attempts to organize Burmese fishermen present in the country. Police claimed they acted because of immigration violations, not at the behest of Thai fishing boat captains, as SUB had alleged. The Government deported the six Burmese sailors.

The law recognizes civil servants' freedom of association and right to organize. In 2002, employees of several ministries began to form employee associations, and union organizations began to seek members. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered some resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

### 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.

# visited 12/18/1008

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.

In 2003, the DPR passed the Manpower Development and Protection Act (Manpower Act), which regulates collective bargaining, the right to strike, and general employment conditions. The act does not apply to SOEs. The ILO provided technical assistance in the development of the law, which generally meets ILO standards. Some unions remained opposed to the law, claiming it contains inadequate severance benefits, insufficient protection against arbitrary terminations, insufficient restrictions against outsourcing, and legalization of child labor under some conditions. The Government continued to issue implementing decrees for the Manpower Act.

In January, 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, in July there were 9,122 CLAs in effect between unions and private companies. Company regulations, allowed for under government regulations, substituted for CLAs in another 36,274 companies, many of which did not have union representation. In addition, in 2003 there were 59 labor agreements in effect between unions and state enterprises and another 65 agreements between nonunionized workers and state enterprises. The Manpower Act requires that employers and workers form bipartite bodies (joint employer/worker committees) in companies with 50 or more workers, a measure to institutionalize bipartite communications and consensus building. However, the number of such bodies did not increase significantly after passage of the act.

All workers, whether or not they are 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 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 group did so with less frequency. The large majority of government-recorded strikes involved nonunion workers. Unions or workers' representatives must provide 7 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 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. On September 8, approximately 200 police assaulted striking workers at PT Shamrock Manufacturing Corporation in Medan, a clash that injured several workers and police. The workers had been on strike for 1 month, following the company's dismissal of 14 union officials affiliated with the Medan Independent Workers Union. The company also had employed local thugs to put down the strike, according to media sources. To develop standards of conduct in labor disputes, the national police participated fully in an ILO worker rights training program initiated during this period.

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.

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).

# visited 12/18/1008

The Government tolerated forms of compulsory labor practiced in the migrant worker recruitment process. The unscrupulous practices of migrant worker recruiting agencies, or Perusahaan Jasa Tenaga Kerja Indonesia (PJTKI), 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. In what the Solidarity Center and other NGOs described as commonplace, the Jakarta Post newspaper reported in July that guards at a migrant worker holding center caught and beat a prospective worker, Fadijah, who attempted to escape from the center in South Jakarta. Local residents rescued Fadijah and took the guards to a local police station. Tired of waiting for a promised job in Malaysia, Fadijah reported that she tried to return to her home but the PJTKI would not allow her to leave the center until she had paid a debt of \$280 (2.5 million rupiah).

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 National Child Protection Act addresses economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade. The law 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 this act.

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 6 to 8 million children exceeded the legal 3-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 informally estimated that 700,000 children worked as servants. 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).

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. Jakarta offered the highest minimum wage level \$74 (671,550 rupiah) per month, while East Java stipulated the lowest at \$34 (310,000 rupiah) per month. In December, workers in Jakarta protested the Governor's decision to raise the monthly minimum wage by only 6 percent to \$78 (711,843 rupiah), which fell below the government-determined minimum 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 in the industry.

Local manpower (Disnaker) officials are responsible for enforcing minimum wage regulations. Enforcement remained inadequate, particularly

# visited 12/18/1008

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; however, at year's end, companies had registered only 23 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 5-and-a-half or 6-day workweek. The law also requires at least 1 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. 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 105,846 occupational accidents in 2003, an increase from 103,804 in 2002. Local Disnaker 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.



[BACK TO TOP](#)

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