

CHILE

EXECUTIVE SUMMARY

Chile is a constitutional multiparty democracy. In January 2010 voters chose Sebastian Pinera Echenique of the center-right Coalition for Change as president in elections that were generally considered free and fair. Security forces reported to civilian authorities.

The principal human rights problems reported during the year were poor prison conditions; allegations of excessive use of force and mistreatment by police forces, including during student protests; and disputes between indigenous communities and the government regarding land rights, development, and judicial matters.

Additional human rights concerns in the country included violence against women and child abuse.

The government generally took steps to prosecute officials who committed abuses, whether in the security services or elsewhere in the government.

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings. However, there were reports of killings by the carabineros (national uniformed police).

On March 19, members of the carabineros in La Ligua allegedly detained and beat 19 year-old Luis Santander. Police left Santander with a ruptured spleen, and he died in the street. A criminal investigation was pending at year's end.

On August 25, in the Macul neighborhood of Santiago, a member of the carabineros allegedly shot and killed 16-year-old Manuel Gutierrez at the end of a two-day national strike. Carabineros initially denied involvement in the shooting, despite eyewitness accounts. However, a criminal investigation determined that a carabineros unit used its weapons in the vicinity of the shooting, a fact that unit members had attempted to hide and of which they failed to inform their superiors. Six members of the unit were discharged, and the carabineros' general in charge of the area resigned. On September 3, a military prosecutor indicted former sergeant

Miguel Millacura for unnecessary use of force resulting in Gutierrez's death and placed Millacura in pretrial detention. On November 17, a military court released Millacura on provisional liberty. The case was pending at year's end.

On January 26, former Santiago Appellate Court judge and prosecutor Beatriz Pedrals presented 726 new legal complaints for dictatorship-era executions that had not yet been investigated, including the 1973 death of then president Salvador Allende. The cases were assigned to Special Investigative Judge Mario Carozza.

On March 5, the Group of Family Members of the Politically Executed presented 403 new cases to Judge Carroza for 566 victims of dictatorship-era human rights violations, including the case of U.S. citizen Ronnie Moffit, who was killed in Washington, D.C. in 1976.

In 2009 Judge Alejandro Madrid charged six persons for allegedly poisoning former president Eduardo Frei Montalva in 1982. A National Intelligence Directorate (DINA) agent, a doctor, and Frei's driver were charged with murder. Two other doctors who allegedly falsified the autopsy were charged as accessories to the crime, and another doctor was charged as an accomplice. The case remained pending at year's end, and none of those charged had been detained.

b. Disappearance

There were no reports of politically motivated disappearances.

Judge Jorge Zepeda continued his investigation into the 1985 disappearance case of U.S. citizen Boris Weisfeiler. In March 2010 Weisfeiler family members separately resubmitted the case to the Advisory Commission on the Classification of Disappearances, Political Executions, and Victims of Political Imprisonment and Torture (Valech Commission), which reviewed new requests to recognize dictatorship-era cases as human rights violations (see section 5). On August 18, the commission issued its final report, which did not recognize the Weisfeiler disappearance as a human rights violation.

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

Although the constitution prohibits such practices, nongovernmental organizations (NGOs) received reports of excessive force, abuse, and mistreatment by

carabineros, investigative police (PDI) members, and prison guards, few of which resulted in convictions.

In December a military prosecutor indicted six carabineros for “applying torments, mental pressure, and illegal detention” to Juan Berrios, whom the officers detained in a police van and threatened to “disappear” at gunpoint in December 2010. The case was pending at year’s end.

The prison system (gendarmeria) opened administrative investigations into 116 allegations of abuse during the year. Of these cases, 15 were closed and 101 were pending at year’s end.

Prison and Detention Center Conditions

Prison conditions generally were poor. Prisons often were overcrowded and antiquated, with substandard sanitary conditions and inadequate food and medical services in some cases. Prisoners had access to potable water, although exposed sewage was a problem in some prisons. The 2011 Diego Portales University Law School *Annual Report on Human Rights* stated that violence, including torture, occurred and was justified by prison officials as necessary to maintain order. Violence among inmates was also common.

In isolated instances prisoners died due to lack of clear prison procedures and insufficient medical resources. Prison officials reported that there were 161 deaths during the year, compared with 249 in 2010. Prisoners with HIV/AIDS and mental disabilities failed to receive adequate medical attention in some prisons.

Government sources indicated there were approximately 52,300 prisoners in prisons designed to hold 33,200 inmates. Prisoners included 4,571 women, who were held in separate sections of the same facilities. As of November there were 1,772 minors held in specially designated facilities, of which 524 were held provisionally during their trial.

A prosecutor’s investigation of the December 2010 fire at San Miguel in Santiago (which resulted in deaths of 81 inmates) remained pending at year’s end.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities generally investigated

these allegations and documented the results in a publicly accessible manner. During the year the government took steps to improve recordkeeping and use alternative sentencing for nonviolent offenders, such as conditional release for community service.

The government usually investigated and monitored prison and detention center conditions. However, on November 16, four judges in Arica were sanctioned for not fulfilling their obligation to make weekly prison visits. The government permitted prison visits by independent human rights observers, and such visits took place at both government and privately operated facilities. Prisoner and human rights groups continued to investigate alleged use of abuse or excessive force against detainees. There were no prison ombudsmen.

In October 2010 the Ministry of Justice presented the government with 11 proposals for prison reform which began to be implemented in 2011. These proposals included providing inmates with additional bunks, mattresses, and blankets; increasing the time inmates spent outside of their cells, as well as their access to religious support; and improving food, sanitation, and lighting in prisons.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The carabineros and the PDI have responsibility in law and in practice for law enforcement and maintenance of order within the country. Both forces are overseen by the Ministry of the Interior.

Civilian authorities maintained effective control over the carabineros and the PDI, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving security forces during the year.

Arrest Procedures and Treatment While in Detention

Only public officials expressly authorized by law can arrest or detain citizens and generally did so openly with warrants based on sufficient evidence brought before

an independent judiciary. Authorities must immediately inform a prosecutor of an arrest and generally did so in practice.

The prosecutor must open an investigation, receive a statement from the detainee, and ensure that the detainee is held at a local police station until the detention control hearing. Detention control hearings are held twice daily, allowing for a judicial determination of the legality of the detention within 24 hours of arrest. Detainees must be informed of their rights, including the right to an attorney and the right to remain silent until an attorney is present. Public defenders are provided to detainees if they do not select a lawyer of choice. Authorities must expedite notification of the detention to family members. If authorities do not inform the detainees of their rights upon detention, the process can be declared unlawful by the judge during the detention control hearing.

The law allows judges to set bail, grant provisional liberty, or order continued detention as necessary to the investigation or for the protection of the prisoner or the public.

The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. Regular visits by family members are allowed.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

Defendants enjoy a presumption of innocence and have a right of appeal. The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. National and regional prosecutors investigate crimes, formulate charges, and prosecute cases. Three-judge panels form the court of first instance: the process is oral and adversarial, trials are public, defendants have the right to be present and consult with an attorney in a timely manner, and judges rule on guilt and dictate sentences. Defendants do not enjoy the right to a trial by jury. Court records, rulings, and findings were generally accessible to the public.

The law provides for the right to legal counsel, and public defenders' offices across the country provide professional legal counsel to anyone seeking such assistance.

Defendants can confront or question witnesses against them and/or present witnesses and evidence on their behalf, although the law provides for protected witnesses in certain circumstances. Defendants and their attorneys generally have access to government-held evidence relevant to their cases with some exceptions. When requested by other human rights organizations or family members, the NGO Corporation for the Promotion and Defense of the Rights of the People and other lawyers working pro bono assisted detainees during interrogation and trial.

For crimes committed prior to the implementation of the 2005 judicial reforms, criminal proceedings are inquisitorial rather than adversarial. At year's end one inquisitorial criminal court remained open and had an extensive wait for trials.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees, although some indigenous Mapuche convicted of criminal offenses claimed to be political prisoners.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, which permits individuals to seek civil remedies for human rights violations. However, the civil justice system retains antiquated and inefficient procedures. The average civil trial lasted approximately five years, and civil suits could continue for decades. There are administrative and judicial remedies available for alleged wrongs.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Military courts may charge and try civilians for defamation of military personnel and for sedition, but their rulings can be appealed to the Supreme Court.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

In June the government revealed that it was monitoring online social networks as a way to measure public opinion. In April the government hired the firm BrandMetric to conduct the monitoring and analyze the data. Representatives from the government and BrandMetric stated they were not monitoring individuals, but rather looking for themes related to government interests. On August 11, the government shut down the monitoring program under intense public opposition.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Student protests regarding education reform took place throughout the year. The government routinely granted permits for student marches and demonstrations, occasionally refusing permission for certain routes, citing a concern for public safety.

The police used tear gas and water cannons, and forcibly detained some protesters to maintain order and respond to acts of vandalism that occurred during many of the protests.

On November 4, the Inter-American Commission on Human Rights (IACHR) issued a statement on the government's handling of the student protests, expressing concern over the acts of police violence. The IACHR called on the government to take the necessary steps to ensure complete respect for the rights of freedom of expression, assembly, and protest, and to impose only those restrictions that are

strictly necessary and proportionate and take into account the state's special obligation to guarantee the rights of high-school and university students.

Freedom of Association

The constitution provides for freedom of association, and the government generally respected it in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

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

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

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

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

Elections and Political Participation

Recent Elections: In January 2010 voters chose Sebastian Pinera Echenique of the center-right Coalition for Change as president in free and fair run-off elections. In December 2009 voters also elected 18 of the 38 senators and all members of the Chamber of Deputies in elections generally considered free and fair.

Participation of Women and Minorities: There were 17 women in the 120-seat Chamber of Deputies and five women in the 38-seat Senate. There were four women in the 22-member cabinet. Indigenous people have the legal right to participate freely in the political process, but relatively few were active apart from those elected at the municipal level.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

On December 9, Judge Antonella Sciaraffia of Iquique was suspended temporarily on charges of illicit association, falsification of numerous public instruments, and fraud. The charges came amid additional allegations of fraud in contract awards for schools in Arica and Iquique for which Sciaraffia was responsible. The case was pending at year's end.

On December 12, former congressional deputy Maximiano Errazuriz was found guilty of fraud and sentenced to three years and a day in prison for his role in falsely renting an office and receiving an income of approximately 30,000,000 pesos (\$62,000) between 2004 and 2009. Errazuriz was ordered to pay a fine equal to 10 percent of the funds and prohibited from holding elected office again.

In January 2010 a judge convicted Andres Contardo, a former consultant for both the Civil Registry and Tata Consultancy Services, of disclosing secret civil registry information to Tata. Contardo was sentenced to more than four years in prison but was released on parole. Thirty-seven others were indicted in connection with the case, some of whom were convicted, some of whom were given community service hours in return for their cooperation and the return of funds, and some of whom were awaiting trial at year's end.

The law subjects public officials to financial disclosure and assigns responsibility to the comptroller for conducting audits of government agencies and to the Public Prosecutor's Office for initiating criminal investigations of official corruption.

The constitution requires the government and its agencies to make all unclassified information about their activities available to the public. In practice the government granted citizens and noncitizens, including foreign media, access to all unclassified information. An autonomous transparency council provides for the right of access to information and ruled on cases in which information is denied. On September 13, the government launched a new Web site that provides online access to public information.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: The autonomous National Institute of Human Rights (INDH), established in 2010, operated independently of the government, issued public statements, and proposed changes to government agencies or policies to ensure the promotion and protection of human rights. On December 15, the INDH released its 2011 report, which expressed concern over several human rights issues in the country, including indigenous rights and the restitution of ancestral lands, the use of force by the carabineros during protests, and the prosecutor's application of the antiterrorism law. The Senate and Chamber of Deputies also have standing human rights committees responsible for drafting human rights legislation.

In February 2010 the Valech Commission began accepting new and resubmitted requests to recognize dictatorship-era cases of execution, disappearance, and torture as human rights violations. The application process was open for six months, and the commission received more than 32,500 petitions. On August 18, the commission presented its findings to President Pinera, and the government officially released the final report on August 26. The commission recognized 30 new cases of disappearances and executions, and 9,800 new cases of political imprisonment and torture.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government enforced these prohibitions. However, such discrimination continued to occur.

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape. Penalties for rape range from five to 15 years' imprisonment, and the government generally enforced the law when cases of rape were reported.

The law protects the privacy and safety of the victim making the charge. Between January and August the Public Prosecutor's Office investigated 3,456 cases of rape, and the courts handed down 490 rape convictions. Experts, however, believed that most rape cases went unreported due to fear of further violence, retribution, and social stigma.

The law criminalizes domestic violence, recognizing both physical and psychological violence. However, it remained a serious problem in the country. Family courts handle cases of domestic violence and penalize offenders with fines up to 556,680 pesos (\$1,151). Additional sanctions include eviction of the offender from the residence shared with the victim, restraining orders, confiscation of firearms, and court-ordered counseling. Cases of habitual psychological abuse and physical abuse cases in which there are physical injuries are prosecuted in the criminal justice system. Penalties are based on the gravity of injuries and range from 61 to 540 days' imprisonment.

The authorities generally enforced the law in cases reported to them, and there was no indication of police or judicial reluctance to act. However, experts believed that most domestic violence cases went unreported; again this was due to fear of further violence, retribution, and social stigma. Between January and August, the Public Prosecutor's Office initiated investigations into 72,222 cases of family violence and convicted 9,405 offenders of domestic violence.

The government launched a nationwide campaign in November 2010 (including advertisements on television, billboards, and public transportation) designed to raise awareness about domestic violence and encourage women to report abuse. SERNAM, the National Women's Service, operated 94 assistance centers and 24 women's shelters, and it maintained partnerships with NGOs to provide training for police officers and judicial and municipal authorities on the legal and psychological aspects of domestic violence. The Ministry of Justice and the PDI

operated several offices specifically dedicated to providing counseling and assistance in rape cases. SERNAM also operated a round-the-clock hotline for victims of violence, including domestic abuse and rape. Data was not available to assess the effectiveness of government campaigns against domestic and sexual violence.

Sexual Harassment: Sexual harassment is a misdemeanor. Penalties are outlined exclusively in the labor code. By law sexual harassment is cause for immediate dismissal from the workplace. The law requires employers to define internal procedures for investigating sexual harassment, and employers may face fines and additional financial compensation to victims if internal procedures are not met. The law provides protection to victims of sexual harassment by employers and coworkers. It also provides severance pay to victims who resign due to sexual harassment if they have completed at least one year with the employer. Authorities generally enforced the law in cases reported to them, and there was no evidence of police or judicial reluctance to act. During the year the Labor Directorate received 112 complaints of sexual harassment, and 18 offenders were convicted.

Reproductive Rights: Couples and individuals had the right to decide freely and responsibly the number, spacing, and timing of children and had the information and means to do so free from discrimination, coercion, and violence. Government policy did not interfere with access to contraception, skilled attendance during childbirth, prenatal care, or essential obstetric and postpartum care. However, despite the fact that emergency contraception is legal and that the law provides for the free distribution of emergency contraception in the public health system, many hospitals and clinics continued to refuse to prescribe.

Social and cultural barriers in terms of reproductive rights existed in some cases. The law on surgical sterilizations requires voluntary informed consent. However, the Center for Reproductive Rights reported that there were some cases in which health-care workers pressured or forced HIV-positive women into surgical sterilization.

Women faced significant obstacles to preventing HIV infection, including sociocultural norms, gender-based violence, and lack of information. The law prohibits discrimination against people on the basis of their HIV status, and in the area of health care the law provides that neither public nor private health institutions can deny access to health-care services on the basis of a person's serological status. However, the Center for Reproductive Rights continued to report that HIV-positive women received discriminatory health-care treatment,

especially in reproductive health services. Problems included delayed care, verbal abuse, pressure not to have children, or refusal of treatment.

Discrimination: Women enjoy most of the same legal rights as men. However, discrimination in employment, pay, owning and managing businesses, and education occurred. There were no known reports of discrimination in credit or housing. Despite the possibility of a “community property” marital arrangement, in which each spouse maintains separate control of the assets brought into the marriage, the default and most common marital arrangement is “conjugal society,” which gives a husband the right to administer joint property, including his wife’s property. As a result, women who were married under the conjugal society arrangement were usually required to obtain permission from their husbands to apply for housing subsidies and take out loans or mortgages, while men had unrestricted access to these and other services. Under a 2007 agreement with the IACHR, the government committed to modify the law to give women and men equal rights and responsibilities in marriage. Implementing legislation remained pending at year’s end. The commercial code provides that unless a woman is married under the separate estate regime, she may not enter into a commercial partnership agreement without permission from her husband; a man may enter into such an agreement without permission from his wife.

Despite a 2009 law providing for equal pay for equal work, the overall gap in wages was 32 percent in 2010, and the gap among those with a university education was 35 percent. Only 47 percent of women participated in the labor force in 2010 (compared with 78 percent of men), and they were more likely to work in the informal sector. The labor code provides specific benefits for pregnant workers and mothers of children under two years old, including a prohibition against dismissal during pregnancy and throughout the 449 days after the birth of a child. SERNAM is in charge of protecting women’s legal rights and is the only government office that deals specifically with discrimination against women.

On October 17, the Post-Natal Leave Law went into effect, which extends maternity leave in the country from three to six months and was estimated to benefit 2.5 million women, including noncontracted temporary workers. The new law allows for a paternity leave option and gives mothers the flexibility to choose half-day or full-time leave during the last three months of postnatal leave. Employers who obstruct the right to maternity leave are subject to fines of up to 5,000,000 pesos (\$10,338). However, some women’s groups claimed that the new law does not go far enough in promoting gender equality and noted that the

required conditions for noncontracted women to take leave put the new benefits out of reach for many.

Children

Birth Registration: Citizenship is derived by birth within the country's territory and from one's parents or grandparents, and births are registered immediately.

Child Abuse: Violence against children was a significant problem. The National Children's Service (SENAME) ran 84 programs for children and youth in high-risk situations. SENAME also collaborated with municipal governments to run 114 local branches of the Office for the Protection of Children's Rights throughout the country. SENAME, the carabineros, and the PDI cooperated with schools and NGOs to identify children in abusive situations. These groups provided counseling and other social services to abused children.

Sexual Exploitation of Children: The penalties for commercial sexual exploitation of children range from three to five years in prison. The range increases from five years and a day to 20 years and a fine of 31 to 35 UTM (\$2,454 to \$2,771) in cases where exploitation is habitual, or if there was deceit or abuse of authority or trust. The UTM is a legally defined currency unit, indexed to inflation, equivalent to approximately \$79. The criminal code considers 18 the age for consensual sex. Sex with a girl between ages 14 and 18 may be considered statutory rape, and sex with a child under age 14 is considered rape, regardless of consent or the victim's gender. Penalties for statutory rape range from five years and a day to 20 years in prison. Child pornography is a crime. Penalties for producing child pornography range from 541 days to five years in prison. Child prostitution was a problem. Children engaged in prostitution for survival with and without third-party involvement.

Institutionalized Children: An August report released by family court judges described substandard conditions in some children's shelters. The report described a shelter where the children received two meals a day, consisting only of bread, and where there had been a gas leak for months. The report also described a shelter in which children identified as sex offenders were housed with children identified as being vulnerable to, or victims of, sexual abuse. Additionally there was an account of a girls' shelter without privacy or adequate heating.

In May 2010 PDI detectives arrested nine individuals for alleged sexual exploitation of adolescent girls at the Capullo youth home run by SENAME in the Bio-Bio region. All four of the resulting lawsuits ended in convictions.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There were approximately 15,000 members of the Jewish community. There were various reports of anti-Semitic incidents during the year, such as acts of vandalism, verbal slurs, bomb threats, and online harassment. Authorities noted an increase in anti-Semitic comments made via social media during the year, including by several congressional deputies. Vandalism included desecration of Jewish community institutions, such as schools, synagogues, and cemeteries.

Neo-Nazi and skinhead groups engaged in gang-type criminal activities and violence against immigrants, homosexuals, punk rockers, and anarchists. Some skinhead groups shared the anti-Semitic rhetoric of neo-Nazi groups.

The interior minister, who is Jewish, was the target of several anti-Semitic remarks throughout the year. On August 11, the president of the College of Professors accused the minister of using “Zionist methods of apartheid” and “having some upbringing in some school of Israel.” After widespread condemnation, the College of Professors president apologized for the remarks. On December 21, following the interior minister’s condemnation of a Communist Party letter of condolence to North Korea for the death of Kim Jong Il, a deputy from the Communist Party stated via Twitter that the interior minister was “a Jew who acted like a Nazi.”

On December 31, a deputy from the Christian Democrats made anti-Semitic comments on Twitter about an Israeli tourist accused of starting a fire in Torres del Paine.

The National Office of Religious Affairs is part of the executive branch and is responsible for promoting religious freedom and tolerance.

Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other state services, and the government effectively enforced these provisions. However, persons with disabilities suffered forms of de facto discrimination. Law 20,422, which came into effect in February 2010, establishes norms for equal opportunity and social inclusion for persons with disabilities. The law provides for universal equal access to buildings, information, and communications. However, most public buildings did not comply with legal accessibility mandates. An improved transportation system in Santiago provided additional, but still limited, accessibility for persons with disabilities. Public transportation outside of the capital remained problematic.

The 2010 law also created the National Service for the Disabled (SENADIS), which replaced the National Fund for Persons with Disabilities. SENADIS operates under the jurisdiction of the Ministry of Planning and has responsibility for protecting the rights of persons with disabilities and creating programs to promote their better integration into society.

A number of communities around Santiago built parks that cater to the needs of children with physical, visual, and hearing impairments. This effort was part of a larger government initiative to provide universal access to public spaces.

Indigenous People

Indigenous people (approximately 5 percent of the total population) have the right to participate in decisions affecting their lands, cultures, and traditions, including the exploitation of energy, minerals, timber, or other natural resources on indigenous lands. However, the INDH noted in its 2011 annual report that government policies and judicial decisions regarding consultation with indigenous peoples limited their participation and restricted the measures and subjects of discussion. The INDH's 2010 report stated that serious institutional deficits persisted regarding indigenous peoples' economic, social, and cultural rights; political participation; and land and territorial rights. Indigenous people also experienced societal discrimination, and there were reported incidents in which they were attacked and harassed. Indigenous women faced triple discrimination on the basis of their gender, indigenous background, and reduced economic status, and they were especially vulnerable to violence, poverty, and illness.

There were isolated instances of violence between the Mapuche and landowners, logging companies, and police in the southern part of the country. The actions usually took the form of protests regarding historic Mapuche concerns about their rights to ancestral lands. Instances of rock throwing, land occupations, and burning crops, buildings, or vehicles occurred. Mapuche activists and police forces stationed in the area to guard private lands sometimes engaged in skirmishes.

There were reports of police abuse against Mapuche individuals and communities. On August 24, the Americas director of Human Rights Watch stated that “there is, indeed, strong evidence of police abuse, of police brutality during raids, and of excessive and unjustified force, which has resulted in the loss of Mapuche lives.” The military justice system is responsible for investigating all cases of alleged police abuse.

The NGO Citizens’ Observatory (OC) reported police searches of Mapuche homes without a warrant, arrest and release of Mapuche individuals without a detention control hearing, and police use of intimidation and discriminatory statements against Mapuche individuals, including minors. The INDH’s 2011 report stated that the rights of Mapuche children in these contexts were not always protected.

The Ethical Commission Against Torture’s annual report noted that, as of May, 62 Mapuche individuals had been jailed, indicted, or convicted for actions that included destruction of property, attacks on farms, or confrontations with police. The Equitas Foundation’s *Barometer of Politics and Equality* report in April noted that sentences for police convicted of crimes against Mapuche were noticeably more lenient than those for Mapuche individuals.

On December 22, the Temuco Appellate Court issued instructions to carabineros to use extreme caution in the treatment of minors after police detained a 12-year-old Mapuche boy on December 8. On December 21, the same court issued instructions to carabineros to abstain from using tear gas near indigenous homes in response to an appeal made by a Mapuche community following carabineros’ use of tear gas during searches in early November.

On January 10, the UN special rapporteur on the rights of indigenous peoples sent a communication to the government regarding the December 2010 police evictions of Rapa Nui protesters from government buildings and public spaces on Easter Island. The special rapporteur recommended that the government avoid evictions

and maintain a police force on the island necessary and proportional to ensure the security of its inhabitants. On February 7, the IACHR granted precautionary measures for the Rapa Nui, requesting that the government guarantee that the actions of its agents in handling protests and evictions would not jeopardize the life or physical integrity of members of the Rapa Nui. In February President Pinera appointed a special commissioner for Easter Island. The Special Commissioner's Office oversees four working groups created to address migration, land, development, and the island's status as a special territory. On October 31, the IACHR lifted its measures.

The OC denounced the September 2010 prosecution of Karina Riquelme, an attorney and member of the Center for Research and Defense SUR, who has defended Mapuche protesters. On November 11, Riquelme was convicted of illegally exercising the legal profession in 2009 and sentenced to 21 days with a conditional pardon. The OC denounced the action as an attempt to intimidate and discredit Riquelme. An appeal was pending at year's end.

On June 3, the Supreme Court partially annulled the sentences of four Mapuche individuals who were convicted in February of attempted murder and armed robbery. The four were part of a group of more than 30 Mapuche awaiting trial who went on a hunger strike in July 2010 to protest their prosecution under the antiterrorism law and the military justice system. While antiterrorism charges were dropped in 2010, the defendants appealed on the grounds that their due process rights had been violated because evidence collected and used during their trial was done so under special antiterrorism law provisions. The Supreme Court upheld sentences for armed robbery but overturned the convictions for attempted murder, replacing them with convictions for assault and reducing total sentences of 20 to 25 years in prison to between eight and 14 years. The four convicted Mapuche held another hunger strike during the year, which ended June 9 after the formation of a Commission for the Rights of the Mapuche People, which included the INDH director, the archbishop of Concepcion, and Mapuche leaders. The commission's objective was to listen to the demands of Mapuche communities and suggest solutions to authorities.

On January 19, a group of observers from the International Federation of Human Rights issued a declaration regarding the situation of three Mapuche youth accused of arson and illicit association under the antiterrorism law. Two of the youths were released under partial house arrest in January, while the third was released under partial house arrest on February 11, after being held in pretrial detention in a SENAME juvenile justice facility since April 2010. A fourth was arrested in

April, charged, and released under partial house arrest. All four were awaiting trial at year's end.

On November 24, the Military Court of Valdivia convicted Special Operations police Corporal Miguel Patricio Jara for the use of unnecessary force resulting in the 2009 death of Jaime Mendoza. Mendoza was killed while occupying private land in Ercilla. Jara was sentenced to five years in prison and an appeal was pending at year's end.

On December 15, the Supreme Court rejected a procedural appeal in the case of Matias Catrileo, who was killed by a carabinero in 2008 while occupying private land. The court's decision upheld the conviction of carabineros corporal Walter Ramirez for unnecessary violence resulting in Catrileo's death, which had increased Ramirez's sentence to three years in prison and prohibited him from serving in public office for the duration of his sentence, although it allowed him to serve time on parole.

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

The Movement for Homosexual Integration and Liberation (MOVILH) reported 138 cases of discrimination due to sexual orientation in 2010, compared with 124 reported cases in 2009. MOVILH also noted a worsening in the acts of violence against the lesbian, gay, bisexual, and transgender community, including one killing, five acts of physical or verbal aggression, two incidents involving mistreatment by police, and nine incidents of work discrimination in 2010.

Earlier in the year, the Inter-American Court of Human Rights accepted the 2009 IACHR petition to hear the case of Karen Atala, a judge who claimed discrimination in the loss of custody of her three daughters because she is a lesbian. The case was pending at year's end.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS or against other groups not covered above.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

Workers, with the exception of police and military personnel, have the right to form and join independent unions of their choice without previous authorization. With some limitations, the law also allows strikes, protects the right of collective bargaining, and prohibits antiunion practices.

Union leaders are restricted from being members of political parties, and the Directorate of Labor has broad powers to monitor union accounts and financial transactions. By law public employees are prohibited from striking. While employees in the private sector have the right to strike, the law places some restrictions on this right. For instance, strikes must be approved by an absolute majority of workers. In addition, strikes by agricultural workers during the harvest season are prohibited. The law also proscribes employees of 100 private sector companies, largely providers of services such as water and electricity, from striking and stipulates compulsory arbitration to resolve disputes in these companies. The law does not specifically prohibit employers from dismissing striking workers. However, employers must show cause and pay severance benefits if they dismiss strikers.

Collective bargaining is protected by law, with exceptions for some public employees; entertainers; and temporary agricultural, construction, and port workers. The law guarantees collective bargaining rights only at the company level and where the employer agrees to negotiate with the collective. Collective bargaining in the agricultural sector remained dependent on employers agreeing to negotiate, since most of these workers were temporary and not automatically eligible for collective bargaining. Intercompany unions are permitted to bargain collectively only when the individual employers agree to negotiate under such terms.

The government generally enforced labor laws effectively. Freedom of association and the right to collective bargaining were generally respected in practice. The government protected the right to strike in practice. Despite being prohibited by law, public sector strikes sometimes occurred. Worker organizations were independent of the government and political parties. According to Freedom House and the International Trade Union Confederation, antiunion practices, including violence against union leaders, unfair dismissals of union leaders, and replacement of striking workers, continued to occur. Both NGOs and unions reported companies also used sub- and temporary contracts as a form of antiunion discrimination and to increase the size of the workforce without collective bargaining rights.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. On April 1, the government enacted new legislation that modified the penal code to address comprehensively trafficking of persons and human smuggling, including forced labor.

Some action was taken under the modified penal code. In May government prosecutors opened a case against former senator and businessman Francisco Javier Errazuriz for allegedly subjecting 56 Paraguayans, including youth, to forced labor. The case remained under investigation at year's end.

Forced labor continued to occur, primarily for domestic servitude. Some children were forcibly employed in the drug trade. Foreign citizens, including women and children, were subjected to forced labor, notably in domestic servitude, mining, and agriculture.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum age for employment at 18, although it provides that children between the ages of 15 and 18 may work with the express permission of their parents or guardians as long as they attend school. They may perform only light work that does not require hard physical labor or constitute a threat to health or child development. When attending school, children may not work more than 30 hours a week and in no case more than eight hours a day or between the hours of 10 p.m. and 7 a.m. Employers must register their work contracts at the local Ministry of Labor inspector's office.

Ministry of Labor inspectors enforced regulations, and while compliance in the formal economy was high, most children working were employed in the informal economy, outside of the ministry's mandate. During the year the Ministry of Labor imposed some form of sanction in 155 cases involving violations of child labor laws.

The government devoted considerable resources and oversight to child labor policies. With accredited NGOs, SENAME ran 1,024 programs throughout the

country to protect children in vulnerable situations. SENAME, in coordination with labor inspectors, identified and assisted children in abusive or dangerous situations. SENAME also implemented public education programs to raise awareness and worked with the International Labor Organization to operate rehabilitation programs for children withdrawn from child labor.

Multisector government agencies continued to participate in the National Advisory Committee to Eradicate Child Labor, which was charged with implementing the National Action Plan for the Prevention and Progressive Eradication of Child Labor. The committee met regularly during the year, and in September it completed a study of child labor in critical communities designed to evaluate prevention programs and improve future interventions.

During the year the Worst Forms of Child Labor Task Force, a separate entity, maintained a registry of cases and developed a multisector protocol for the identification, registration, and care of children and adolescents in dangerous agricultural jobs.

Child labor was a problem in the informal economy and in agriculture. During the year SENAME and the Ministry of Labor identified 444 cases of children and adolescents involved in the worst forms of child labor. In 147 of the cases, children had been exploited for commercial sex. The use of children in the production, sale, and transport of drugs in the border area with Peru and Bolivia continued to be a problem. Children worked in the production of ceramics and books and in the repair of shoes and garments. In urban areas it was common to find boys carrying loads in agricultural loading docks and assisting in construction activities, while girls sold goods on the streets and worked as domestic servants. Children in rural areas were involved in caring for farm animals, as well as harvesting, collecting, and selling crops, such as wheat, potatoes, oats, and quinoa.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

On July 1, the minimum wage increased 5.5 percent to 182,000 pesos (approximately \$376) a month. As of March 1, the minimum wage for domestic servants was raised from 92 to 100 percent of that for other occupations. The minimum wage for workers over age 65 and under 18 was 135,494 pesos (\$280).

The 2009 official poverty level, the latest government figure available, was 64,134 pesos (\$133) a month.

The law sets the legal workweek at six days or 45 hours. The maximum workday length is 10 hours (including two hours of overtime pay), but some categories of workers, such as caretakers and domestic servants, are exempt. The law mandates at least one 24-hour rest period during the workweek, except for workers at high altitudes, who may exchange a work-free day each week for several consecutive work-free days every two weeks. The law establishes fines for employers who compel workers to work in excess of 10 hours a day or do not provide adequate rest days. Annual leave for full-time workers is 15 work days, and workers with more than 10 years of service are eligible for an additional day of annual leave for every three years worked. Overtime is considered to be any time worked beyond the 45-hour work week. Workers receive time and a half pay for any overtime performed.

The law establishes occupational safety and health standards, which are applicable to all sectors. There are special safety and health norms for specific sectors, such as mining and diving. The National Service for Geology and Mines is further mandated to regulate and inspect the mining industry. The law does not regulate the informal sector or employees who are subcontracted to a company. The law protects employment of workers who remove themselves from dangerous situations if labor inspectors from the Labor Directorate and occupational safety and health inspectors from the country's Safety Association determine that conditions endangering workers' health or safety exist.

The Labor Directorate, under the Ministry of Labor, was responsible for enforcing minimum wage and other labor laws and regulations, and it did so effectively. The Ministries of Health and Labor administered and effectively enforced occupational safety and health standards. Insurance mutual funds are private nonprofit institutions that receive a commission from the government to provide workers' compensation and occupational safety training for the private and public sectors.

The Labor Directorate employed 457 labor inspectors during the year, and it added 72 new inspectors at year's end following the October passage of the Post-Natal Leave Law. Both the Labor Directorate and NGOs reported the need for more inspectors to ensure compliance with labor laws throughout the country, particularly in remote areas. NGOs commented that inspectors needed more training and that labor tribunals were overburdened and would be more effective if they were specialized. For large corporations fines were not considered to have a

deterrent effect. The Labor Directorate worked preventatively with small and medium-sized businesses to assist in their compliance with labor laws. The sectors with the most infractions during the year were real estate and commerce.

Minimum wage violations were most common in the real estate and commerce sectors. In 2009 approximately 11 percent of the workforce received the minimum wage or less in practice.

The sectors with the most infractions in safety and health standards were construction and industrial manufacturing. Between January and September, 288 workplace fatalities and 1,625 serious accidents were registered. The construction and transport sectors suffered the most accidents during the year. In particular, there were reports of continued precarious conditions in mining. Immigrant workers in the agricultural sector were in danger of being subjected to exploitative working conditions.