

## PERU

### EXECUTIVE SUMMARY

Peru is a constitutional, multiparty republic. Ollanta Humala Tasso of the Peruvian Nationalist Party (part of the Gana Peru electoral alliance) won the June presidential run-off elections in a vote considered free and fair and assumed office on July 28. Security forces reported to civilian authorities.

The most serious human rights problems included violence against women and children, trafficking in persons, and government corruption.

The following human rights problems also were reported: killings by security forces of protesters during demonstrations, harsh prison conditions, abuse of detainees and inmates by prison security forces, lengthy pretrial detention and inordinate trial delays, intimidation of the media, incomplete registration of internally displaced persons, and discrimination against women. There also was discrimination against individuals with disabilities; members of racial and ethnic minority groups; indigenous persons; lesbian, gay, bisexual, and transgender persons; and persons with HIV/AIDS. Other problems were a lack of labor law enforcement and the exploitation of child labor, particularly in informal sectors.

The government took steps to investigate and in some cases prosecute or otherwise punish public officials who committed abuses. Officials sometimes engaged in corrupt practices with impunity.

The terrorist organization Sendero Luminoso (Shining Path) was responsible for killings and other human rights abuses, including the recruitment of child soldiers, extortion, and intimidation.

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

#### **a. Arbitrary or Unlawful Deprivation of Life**

The government or its agents did not commit any politically motivated killings; however, in episodes of societal unrest, security forces killed 12 protesters. The majority of these episodes were a result of socioenvironmental conflicts. In addition, one person died as a result of police abuse.

On April 24, Gerson Falla died after police officers detained him in Lima. The report of internal police investigators released on July 26 stated that Falla's death resulted from police abuse. Three police officers were retired, and a fourth was suspended for four months. On August 9, Attorney General Jose Pelaez stated that the director of the VII Police Region, Javier Sanguinetti, should be prosecuted for this crime. At year's end Sanguinetti's prosecution remained pending.

There were several deaths during social protests. For example, on April 27, two protesters in the province of Islay, Arequipa Region, died in a riot against the Tia Maria mining project when they apparently were shot by police officers trying to control the situation. On June 21 and 22, police reportedly killed three persons in the province of Tayacaja, Huancavelica Region, during a protest against the creation of a new university that demonstrators claimed would have diverted resources from the existing regional university. On June 25, in the city of Juliaca, Puno Region, six people died during an attempt by protesters to take over the Juliaca Airport as part of a protest against mining in the region. On December 2, in the southern Lima Region town of Canete, a protester died, apparently shot by police, during a demonstration against the expansion of the La Cantera jail. Investigations continued in all cases; at year's end no one had been charged.

In May a military police court convicted two police officials and one army official for their actions during the 2009 deadly clashes between police and indigenous protesters in and around Bagua, Amazonas Region. Peruvian National Police (PNP) General Luis Mugurza was sentenced to 36 months in prison (suspended and ordered to pay reparations of 10,000 New Soles (approximately \$3,700). PNP General Javier Uribe received a 24-month sentence (suspended for one year) and was ordered to pay 7,000 New Soles (\$2,600). Army General Raul Silva Alban received a 12-month sentence and a fine of 4,000 New Soles (\$1,480).

On August 11, the Constitutional Tribunal rejected former president Alberto Fujimori's habeas corpus petition, thus confirming his 2009 sentence of 25 years' imprisonment for authorizing the mass killings at Barrios Altos and La Cantuta in 1991 and 1992, respectively.

Juan Manuel Rivera Rondon and Telmo Ricardo Hurtado Hurtado, implicated in the 1985 killings of 69 villagers during a military raid on the village of Accomarca, Ayacucho Region, remained in custody while on trial in the Third Supraprovincial Court. On July 14, Hurtado was extradited from the United States and at year's end remained in the Castro Castro Prison.

During the year members of two Shining Path factions conducted 74 terrorist acts (including armed actions and proselytism) in remote coca-growing areas that resulted in the killings of 14 soldiers in the Apurimac and Ene River Valleys (VRAE) emergency zone and five civilians in the emergency zone of the Upper Huallaga Valley (UHV). The two emergency zones were located in parts of Ayacucho, Cusco, Huancavelica, Huanuco, Junin, San Martin, and Ucayali regions. For the first time since 2003, there were no police casualties.

### **b. Disappearance**

There were no reports of politically motivated disappearances during the year.

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

The law prohibits such practices. There were reports that security officials used excessive force, and authorities inconsistently punished those who committed such abuses.

Allegations of abuse most often arose immediately following an arrest, when families were prohibited from visiting suspects and when attorneys had limited access to detainees. In some cases police and security forces threatened or harassed victims, relatives, and witnesses to prevent them from filing charges of human rights violations. According to the nongovernmental Human Rights Commission (COMISEDH), some victims were reluctant to pursue judicial proceedings for fear that members of the security forces involved in abuses would be released without being charged. COMISEDH reported that five cases of alleged aggravated torture, two of which ended in death, by security forces were reported to provincial prosecutors, while the Office of the Human Rights Ombudsman reported such 25 cases.

### **Prison and Detention Center Conditions**

Prison conditions were harsh for most of the country's inmates, who at year's end numbered 51,516, of whom 3,157 were women and 1,358 were juveniles ages 18-19. The National Penitentiary Institute (INPE) operated 43 of the active prisons, the PNP had jurisdiction over 14, and 13 were operated jointly. Prisoners with money had access to cell phones, illegal drugs, and meals prepared outside the prison; prisoners who lacked funds experienced much more difficult conditions. Overcrowding, poor sanitation, and inadequate nutrition and health care were

serious problems. Inmates had intermittent access to potable water, bathing facilities were inadequate, kitchen facilities were unhygienic, and prisoners often slept in hallways and common areas for lack of cell space. There was basic medical care at most prisons, but there were complaints that inmates had to pay for medical attention. There was also a lack of doctors; only 63 doctors worked in the prisons, of whom 34 were based in the capital city area. Tuberculosis and HIV/AIDS reportedly remained at near-epidemic levels: the incidence of tuberculosis was 20 times higher than outside the prisons, while the HIV/AIDS rate was three times higher. The San Juan de Lurigancho men's prison held 6,334 prisoners in a facility designed for 3,204. INPE operated a high-security prison in the jungle area of Iquitos that was in poor condition and continued under renovation.

Prisons for women also were overcrowded and marked by conditions similar to those for men. In an INPE-operated facility for women opened in 2008, prisoners continued to complain about dormitory-style sleeping quarters.

Prison guards and fellow inmates reportedly abused prisoners. Guards received little or no training or supervision. There were killings in prisons attributed to fellow inmates.

Pretrial detainees were held temporarily in pretrial detention centers located at police stations, judiciary buildings, and the Palace of Justice, in most cases with convicted prisoners.

According to the Ombudsman's Office, overcrowding was partially relieved by the issuance of 1,181 presidential pardons between August 2010 and July 2011. Most of those pardoned were youths, sick inmates, or petty criminals.

The government permitted monitoring visits by independent human rights observers. During the year International Committee of the Red Cross (ICRC) officials made 42 unannounced visits to inmates in 17 prisons and detention centers and met with 593 persons in accordance with standard modalities. Ombudsman representatives also made regular visits to Lima and provincial prisons.

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

complaints and documented the results in a publicly accessible manner. The ombudsman reported that most complaints stemmed from the failure of authorities to release inmates on time due to delays in the judicial process or INPE procedures and stated that the number of such complaints during the year diminished because of improved INPE recordkeeping. Human rights advocates maintained that the government failed to allocate the resources needed to monitor and improve prison conditions and criticized INPE leadership for lacking competence. The government took no steps to use alternatives to prison sentencing for nonviolent offenders.

On August 18, the new administration replaced the head of the INPE with penal expert Jose Luis Perez Guadalupe, who immediately made significant changes to the prison management system, including reinstating the system of appointments of inmate “delegates” to serve as liaison to the administration. This decision put Perez at odds with the leaders of the unofficial power structure that existed among inmates.

#### **d. Arbitrary Arrest or Detention**

The constitution and laws prohibit arbitrary arrest and detention, and the government generally observed these prohibitions. However, isolated cases occurred, and the right to freedom from arrest without warrant was suspended in emergency zones, where police or military were in control of internal security. On December 4, the government decreed a 60-day state of emergency in four provinces of Cajamarca Region to quell protests against a mining project. The government lifted the state of emergency on December 15, after protesters removed roadblocks. On December 6, six members of the Cajamarca antimining coalition, including one prominent leader, claimed to have been improperly detained for 10 hours after participating in a congressional hearing in Lima. The police officers involved claimed the detainees had not provided proof of identity.

#### **Role of the Police and Security Apparatus**

The PNP, with a force of approximately 100,000, is responsible for all areas of law enforcement and internal security except in the VRAE emergency zone, where the military is responsible for internal security. The PNP functioned under the authority of the Ministry of the Interior.

The armed forces, with approximately 115,000 personnel, are responsible for external security under the authority of the Ministry of Defense but also have

limited domestic security responsibilities, particularly in the VRAE emergency zone.

Observers noted that the PNP was undermanned and its members lacked training and professionalism. According to an evaluation by the National Office for Civil Defense (INDEPI), cited in an Ombudsman's Office report issued during the year, more than half of police stations were considered "high risk" or insecure in the event of natural disasters or social unrest. There were reform initiatives underway to address these issues: Supreme Decree 002-2011-N, issued in February, provides funds for corrective renovation, and a Citizen Security Fund (created under Urgent Decree 052-2011, published in September) is to be used to acquire new equipment and repair existing equipment used against crime.

Corruption and a high rate of acquittals for military personnel accused of crimes remained problems (see section 4). The ministries of interior and defense employed internal mechanisms to investigate allegations of abuses by security forces. The Public Ministry conducted investigations, although access to evidence held by the Ministry of Defense was not always forthcoming. The Ombudsman's Office can also investigate cases but must refer any conclusions to the Public Ministry for follow-up.

The PNP is charged with witness protection responsibilities but lacked resources to provide officer training, conceal identities, or offer logistical support to witnesses. Officers often used their own homes to protect witnesses.

### **Arrest Procedures and Treatment While in Detention**

The law permits police to detain persons for investigative purposes. Outside of emergency zones, persons were apprehended openly. The law requires a written judicial warrant based on sufficient evidence for an arrest unless the perpetrator of a crime is apprehended in the act. Only judges may authorize detentions. Authorities are required to arraign arrested persons within 24 hours, except in cases of terrorism, drug trafficking, or espionage, for which arraignment must take place within 15 days; in remote areas arraignment must take place as soon as practicable. Military authorities must turn over persons they detain to the police within 24 hours. The law requires police to file a report with the Public Ministry within 24 hours after an arrest. The Public Ministry, in turn, must issue its own assessment of the legality of the police action in the arrest; authorities respected this requirement in practice.

The time between an arrest and an appearance before a judge averaged 20 hours. Judges have 24 hours to decide whether to release a suspect or continue detention. A functioning bail system exists, but many poor defendants lacked the means to post bail. By law detainees are allowed access to family members and a lawyer of their choice. Police may detain suspected terrorists incommunicado for 10 days. The Ministry of Justice provided indigent persons with access to an attorney at no cost, although these attorneys often were poorly trained. Several nongovernmental organizations (NGOs) provided training for attorneys.

Pretrial Detention: Lengthy pretrial detention continued to be a problem. By October authorities had sentenced only 21,684 of the 51,516 persons held in detention facilities and prisons. According to INPE statistics, as of October approximately 58 percent of those in prison were awaiting trial, the majority for one to two years. Delays were due mainly to judicial inefficiency, corruption, and staff shortages. The law requires release of prisoners who have been held more than 18 months without being tried and sentenced; the period is extended to 36 months in complex cases. Under the new penal procedural code (see section 1.e., Trial Procedures), the terms are nine months for simple cases and 18 months for complex ones.

#### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, and the government generally respected this provision in practice. NGOs and other analysts complained that the judiciary was politicized and corrupt (see section 4).

#### **Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. The justice system is based on the Napoleonic Code. A prosecutor investigates cases and submits an opinion to a first-instance judge, who determines if sufficient evidence exists to open legal proceedings. A judge conducts an investigation, evaluates facts, determines guilt or innocence, and issues a sentence. All defendants are presumed innocent; they have the right to be present at trial, call witnesses, and be represented by counsel. The Ministry of Justice provided indigent defendants with access to an attorney at no cost, although these attorneys often were poorly trained. Defendants and their attorneys generally had access to government-held evidence related to their cases for crimes, except in cases connected to human rights abuses during the period 1980-2000 and particularly with respect to those involving the Ministry of

Defense. Although citizens have the right to be tried in their own language, language services for non-Spanish speakers, who compose a substantial number of persons in the highlands and Amazon regions, were sometimes unavailable. Defendants may appeal verdicts to a superior court and then to the Supreme Court. The Constitutional Tribunal decides cases involving such issues as habeas corpus.

The judicial branch continued the gradual rollout, begun in 2009, of a new penal procedural code designed to streamline the penal process. The new code, implemented in 17 of 31 judicial districts at year's end, requires public hearings for each case and assigns the investigative responsibility to public prosecutors and police; judges are to cease their own investigating. Implementation of the new code in Lima and Callao was planned for 2013; if implemented on schedule, at that point the code should apply to the majority of the country's population.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Regional Human Rights Court Decisions**

On March 4, the Inter-American Human Rights Court ruled against the government in favor of a labor organization. In its written decision, the court indicated it wanted a report on compliance one year hence.

Complying with a judgment of the Inter-American Human Rights Court, on December 13, the president of the Congress reinstated 257 congressional workers who had been dismissed when then president Fujimori suspended Congress in 1992.

### **Civil Judicial Procedures and Remedies**

Citizens may seek civil remedies for human rights violations, but court cases often continued for years. Press reports, NGOs, and other sources alleged that persons outside the judiciary frequently corrupted or influenced judges (see section 4).

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

The law prohibits such actions, and the government generally respected these prohibitions in practice. There were reports, however, that authorities sometimes entered private dwellings before obtaining a warrant; for example, the right to

inviolability of the home was suspended in the UHV and VRAE emergency zones. On December 4, the president declared a 60-day state of emergency, lifted on December 15, that allowed arrests without warrants in four provinces of Cajamarca Region.

The government announced in October that the public prosecutor had reopened an investigation of a case presented by more than 2,000 women who claimed they were subjected to forced sterilizations in the 1990s during the presidency of Alberto Fujimori. Human rights organizations estimated that 300,000 women were subjected to forced sterilization during that period.

## **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. Generally an independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. There were, however, instances of harassment and even extreme violence toward journalists, as well as self-censorship within media outlets.

Violence and Harassment: During the year three broadcast journalists in the provinces were killed; each victim was investigating corruption cases involving local authorities. The victims were shot by unknown assailants who remained at large; two victims had received death threats. Investigations continued at year's end.

A number of journalists and media outlets reported experiencing threats or intimidation. The National Journalists Association reported 189 cases of harassment during the year, compared with 194 in 2010, and the Institute of Press and Society issued 121 alerts, compared with 85 in 2010. Of the harassment cases reported by the National Journalists Association, 76 involved harassment by civilian authorities and 23 by police and military personnel.

Censorship or Content Restrictions: The presidential election campaigns brought alleged internal censorship by the media to the public's attention. Most major media outlets openly supported one of the two second-round candidates. Several

prominent reporters and producers either resigned or were fired allegedly for refusing to follow reporting guidelines concerning their employer's favored candidate. In April cable television Channel N general producer Patricia Montero and newscast producer Jose Jara claimed they were fired for reporting favorably on candidate Ollanta Humala Tasso. Lima daily newspaper *Peru.21* reporters Oscar Miranda, Daniel Yovera, and Emilio Camacho and cartoonist Miguel Det resigned over the alleged favoritism shown to candidate Keiko Fujimori by the newspaper's director, Fritz Dubois. There were no claims of government interference in these instances.

### **Actions to Expand Press Freedom**

Libel continued to be criminalized in the penal code. Ucayali journalist Paul Segundo Garay was sentenced to three years in prison in April following conviction for the 2010 charge of libel of the Ucayali district attorney whom Garay had criticized for alleged corruption. Garay was freed on appeal after serving six months. Blogger Jose Godoy continued the appeal of his sentence of three years' imprisonment (commuted to three years of probation) and a fine of 337,500 New Soles (\$125,000) for defamation of a former congressman in 2009 in Godoy's online news blog. Godoy was the first blogger convicted for defamation, a judgment that national journalist organizations criticized.

### **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.

### **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**

The constitution provides for the right of freedom of assembly, and the government generally respected this right in practice. The law does not require a permit for public demonstrations, but organizers must inform the Interior Ministry's political

authority (prefect) about the type of demonstration planned and its intended location. However, the government suspended the freedom of assembly in emergency zones where armed elements of the Shining Path operated.

Demonstrations may be prohibited for reasons of public safety or health. Police used tear gas and occasional force to disperse protesters in various demonstrations. Although most demonstrations were peaceful, protests in some areas turned violent, resulting in deaths and injuries (see section 1.a.). On December 4, the government decreed a 60-day state of emergency in four provinces of Cajamarca Region restricting the right to assemble after days of strikes and roadblocks had interrupted daily activities, caused shortages in the region, and led to clashes between police and protesters in which dozens of people were injured. The state of emergency was lifted on December 15.

### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right in practice.

#### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

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

The law 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 (UNHCR) 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.

In-Country Movement: The government maintained emergency zones where it restricted freedom of movement in several provinces, an effort it stated was to ensure public peace and restore internal order. In addition, as an antitrafficking measure, the government began requiring adults traveling with minors to show the minor's identity card before boarding a bus or plane.

Narcotics traffickers and Shining Path members at times interrupted the free movement of persons by establishing roadblocks in sections of the UHV and VRAE emergency zones.

Protesters in the Puno and Cajamarca regions and other areas blocked roads, sometimes for weeks, to draw public attention to grievances.

### **Internally Displaced Persons (IDPs)**

There were no major incidents of internal displacement during the year, and the situation of existing internally displaced persons continued to be difficult to assess. According to the UNHCR, the number of IDPs remained unknown, because officials registered relatively few. The government's Reparations Council continued assisting persons who suffered during the 1980-2000 conflict with the Shining Path and MRTA. The council compiled a registry of victims, which included an estimated 137,300 individuals and 5,600 communities eligible for reparations. The Ministry of Women and Social Development (MIMDES) also maintained a registry specifically of IDPs that included approximately 5,000 individuals. A number of victims and family members lacking proper identity documents had difficulties registering for reparations. A supreme decree (051-2011-PCM) authorized phased payments of reparations to victims and stipulated that only victims registered by December 31, 2011, would be eligible. As of year's end, no money had actually been budgeted for reparations.

### **Protection of Refugees**

As of September the UNHCR reported 402 pending refugee requests and 1,157 refugees whom the government recognized.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government cooperated with the UNHCR and recognized the Catholic Migration Commission as the official provider of technical assistance to refugees. The commission also advised citizens who feared persecution and sought asylum abroad. The government provided protection to refugees on a renewable, year-to-year basis, in accordance with commission recommendations.

Durable Solutions: There was no resettlement program, but the state received Colombians recognized as refugees in Ecuador, as well as Venezuelan and Cuban refugee applicants, and provided some administrative support toward their

integration. The UNHCR provided such refugees with humanitarian and emergency aid, legal assistance, documentation, and in exceptional cases, voluntary return and family reunification.

Temporary Protection: The government provided temporary protection to individuals who may not qualify as refugees, such as in the case of several Haitian citizens who were discovered waiting to cross the border with Brazil.

### **Stateless Persons**

Citizenship is derived either by birth within the country's territory or from one's parents. If overseas, parents must register their child's birth by age 18 for the child to obtain citizenship. The law provides all citizens with the right to a name, nationality, and legal recognition as well as other civil, political, economic, and social rights. An estimated 277,596 persons did not have birth certificates, and 4.7 million citizens (15.9 percent of the population) lacked identity documents and could not fully exercise these rights, making them de facto stateless. Poor indigenous women and children in rural areas were disproportionately represented among those lacking identity documents. Undocumented citizens faced social and political marginalization and barriers to accessing government services, including running for public office or holding title to land. Obtaining a national identity document requires a birth certificate, but many births in rural areas occurred at home. Poor women who gave birth at home often could not pay the fees associated with registration. In an effort to lower infant mortality rates, the Ministry of Health provided free registration for women who gave birth in clinics or hospitals.

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

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

### **Elections and Political Participation**

Recent Elections: On July 28, Ollanta Humala Tasso assumed the presidency after two rounds of elections that were considered free and fair. Domestic and international observers declared the nationwide elections held on April 10 (for president, Congress, and the Andean Parliament) and June 5 (a second round for

the presidential race only) to be fair and transparent, despite some controversy over campaign financing and minor irregularities in some areas. In elections for the unicameral Congress, President Humala's Gana Peru alliance won 47 of 130 seats, which constituted the largest of six legislative blocs.

The June 5 presidential runoff was a contest between two controversial candidates. Ollanta Humala Tasso, the eventual winner, had been accused of human rights violations while serving in the military. His opponent, Keiko Fujimori, was the daughter of former president Alberto Fujimori, who was serving a prison sentence for human rights abuses and corruption. A number of civil society organizations, particularly human rights NGOs, became directly involved in the elections process by either campaigning against Keiko Fujimori or openly supporting Humala, forsaking their traditional role as nonpolitical observers.

Political Parties: Political parties operated without restriction or outside interference, although they remained weak institutions dominated by individual personalities. In regional and municipal elections, regional movements continued to gain ground at the expense of national parties. Groups that advocate violent overthrow of the government are barred from participating in the political process.

Participation of Women and Minorities: The law mandates that at least 30 percent of the candidates on party lists be women, and the parties complied. There were 28 women in the new Congress. Three members of Congress identified themselves as Afro-Peruvians. Three of 19 cabinet members were women. There were two women on the 18-member Supreme Court.

#### **Section 4. Official Corruption and Government Transparency**

The law provides criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There was a widespread perception that corruption was pervasive in all branches of government. The Office of the Comptroller General had independent authority to sanction public officials who committed corrupt acts; penalties included temporary suspension, termination of employment, and criminal prosecution.

Allegations of widespread corruption in the judicial system continued. The new penal procedural code (see section 1.a., Trial Procedures), while not yet implemented in Lima and Callao, was applied to corruption cases in these judicial districts, an indication of the importance given to such cases. For example, the

new code was used in the case of Marco Antonio Guerra Castillo, a judicial technician who on January 25 was videotaped receiving a bribe in the Supreme Court building.

During their time in office, members of Congress cannot be prosecuted or arrested without congressional approval, except in the case of flagrant crimes, in which case the judicial branch must request that Congress allow their arrest. Congressional immunity does not apply in cases underway before the member was sworn in. It also does not protect members of Congress from nonpenal accusations, such as failure to fulfill contracts or pay child support. Fourteen members of Congress were under investigation for questionable activities ranging from falsifying their resumes (by including false degrees and omitting prior convictions) to involvement in illegal mining. Another prominent case involved the second vice president, also a member of Congress and accused of influence peddling.

Corruption in prisons was a serious problem, and in some cases guards cooperated with criminal bosses who oversaw the smuggling of guns and drugs into prisons. There were several reports of military corruption, impunity, and resistance to providing information on military personnel under investigation for human rights abuses committed during the country's internal armed conflict. Security forces sought to strengthen accountability with training in human rights and the revision of disciplinary procedures but were doing so slowly.

Authorities completed investigation of the Petroaudios scandal--involving corrupt oil concessions--at the end of 2010. However, the oral proceedings had not started at year's end. Former government minister Romulo Leon was released on December 2, after spending 36 months in jail without a sentence for his alleged involvement, and Perupetro official Alberto Quimper, also suspected of wrongdoing, remained under house arrest. In a related Petroaudios case, oral proceedings continued in the investigation of illegal wiretapping and mishandling of wiretapping evidence.

On August 31, the comptroller general reported to Congress that 10,659 public servants were involved in irregularities between January 2009 and July 2011, the end of the Alan Garcia administration. According to the report, 2,447 of these cases involved penal or civil infractions, while the remainder reflected simple mismanagement. Most of these cases were related to infrastructure projects (such as the reconstruction of the town of Pisco after the 2007 earthquake and the remodeling of the National Stadium and hospitals) or social programs (such as a

program that provides construction materials). The government was reviewing the cases. On September 15, Congress approved the formation of a commission to investigate alleged corruption during the previous government. The commission began work on November 21.

On December 21, former vice minister of justice Gerardo Castro was convicted of offering bribes to a Ministry of Production official to obtain a commercial fishing license. Castro was sentenced to five years in jail.

Most public officials are subject to financial disclosure laws and must submit personal financial information to the Office of the Comptroller General prior to taking office and periodically thereafter. However, these laws were not strongly enforced.

The law provides for public access to government information, and most ministries and central offices provided information on Web sites. Implementation of the law was incomplete, particularly in rural areas, where few citizens exercised or understood their right to information. The ombudsman encouraged regional governments to adopt more-transparent practices for releasing information and monitored their compliance with the requirement for public hearings at least twice a year.

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

A large number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. NGOs seeking information from military commanders worked through the Office of the Human Rights Ombudsman.

The government relied on the ICRC to facilitate work among government entities and civil society on missing persons issues. The ICRC contributed to strengthening psychological and social support to missing persons' relatives and provided expertise to medical, legal, and forensic officials. The ICRC also addressed the humanitarian consequences of social violence by providing medical assistance, discussed the use of force with authorities and law enforcement, and maintained a permanent office in Ayacucho for the VRAE emergency zone.

Government Human Rights Bodies: The Ministry of Justice was renamed the Ministry of Justice and Human Rights on December 5 when President Humala signed Law No. 29809. This law also created a Vice Ministry of Human Rights and Access to Justice.

The Office of the Human Rights Ombudsman operated its 28 offices and 10 satellite sites without government or party interference and was considered effective. During the year the ombudsman issued two reports with recommendations on intercultural/bilingual education and abandoned children. The government took account of these recommendations to varying degrees.

Congressional committees included the Justice and Human Rights Committee and a committee for Health, Population, Family, and Persons with Disabilities. They issued no reports and had limited policy impact.

The National Penal Court handed down two decisions on cases presented by the Truth and Reconciliation Commission. Hector Andres Egoechaga was sentenced to 14 years in prison for the murder of Indalecio Pomatanta in Pucallpa in 1995. The court found three others innocent and reserved sentencing on a fifth suspect, who was absent from the court. The case was challenged by the Public Ministry, which opposed the finding of innocence of the three suspects and alleged that Egoechaga's sentence was below the minimum recommended for his crime.

The court also ruled in the Pucayacu II case, sentencing Enrique de la Cruz Salcedo to 17 years in prison for the extrajudicial killing of seven persons in 1985. Another suspect in the case was found not guilty due to a mental illness he allegedly suffered at that time; a third suspect had fled, leading authorities to postpone his trial until his eventual capture.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, but enforcement lagged and discrimination persisted.

### **Women**

Rape and Domestic Violence: The legal framework governing women's rights and protections is comprehensive and well defined. The application and enforcement of the law, however, was severely lacking. The law criminalizes rape, including spousal rape, with penalties of six to eight years in prison, but enforcement was

ineffective. MIMDES reported 841 cases of rape nationwide for the year, but observers maintained that rape was underreported due to a fear of retribution, including further violence and stigma. There were no available statistics on abusers prosecuted, convicted, or punished.

The law prohibits domestic violence, and penalties range from one month to six years in prison. The law authorizes judges and prosecutors to prevent the convicted spouse or parent from returning to the family home and authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence. It also allows health professionals to document injuries. The law requires police investigation of domestic violence to take place within five days and obliges authorities to extend protection to female victims of domestic violence. During the year MIMDES reported that 35 men had been sentenced for crimes related to domestic violence.

Violence against women and girls, including rape, spousal abuse, and sexual, physical, and mental abuse, remained a serious problem. Insensitivity on the part of law enforcement and judicial authorities toward female victims contributed to a societal attitude of permissiveness toward abuse. MIMDES reported 77 femicides and 60 attempted killings of women during the year.

On December 26, a new law (008/2011-CR) that incorporates femicide into the criminal code went into effect. The law provides for a minimum sentence of 15 years' imprisonment for those convicting of killing a woman who is an immediate relative, spouse, or partner.

Many domestic abuse cases went unreported, and NGOs stated that the majority of reported cases did not result in formal charges because of fear of retaliation or the expense of filing a complaint. The protections offered were limited because of legal delays and ambiguities in the law. Shelters for those affected by domestic violence were in short supply and did not adequately protect and support victims.

MIMDES operated the Women's Emergency Program, which included 139 centers that combined police, prosecutors, counselors, and public welfare agents to help victims of domestic abuse. It also sought to address the legal, psychological, social, and medical problems facing victims of domestic violence. The ministry also operated a toll-free hotline.

MIMDES continued efforts to sensitize government employees and the citizenry to domestic violence. The government continued to implement a broad national plan

for 2009-15 to address violence in the family and against women. Nonetheless, NGOs and the ombudsman asserted that police officers reacted indifferently to charges of domestic violence, despite legal requirements to investigate such complaints.

Sexual Harassment: Sexual harassment was a serious problem. The law defines sexual harassment not as a criminal offense but as a labor rights violation subject to administrative punishment, which depends on the professional situation in which the violation occurred. Government enforcement was minimally effective. The ability of women to report sexual harassment was hampered by the undue burden on the victims themselves to prove their cases and by the fear of retribution.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children free from discrimination, and they generally had the means and information to do so. Access to information on contraception and family planning was widespread.

Discrimination: The law provides for equality between men and women and prohibits discrimination against women with regard to marriage, divorce, and property rights. Women from the upper and upper-middle classes assumed leadership roles in companies and government agencies. The law prohibits sexual discrimination in employment or educational advertisements and the arbitrary dismissal of pregnant women, but in practice discrimination continued. The law stipulates that women should receive equal pay for equal work, but women often were paid less than men for comparable work. Societal prejudice and discrimination also led to disproportionate poverty and unemployment rates for women. Women were more likely to work in the informal sector or in less secure occupations such as maids, factory workers, or street vendors, and they were more likely to be illiterate due to lack of formal education.

## **Children**

Birth Registration: Citizenship is derived either by birth within the country's territory or from one's parents. There were problems with government registration of births (see section 2.d.). Failure to register made it more difficult to obtain public services, such as education and health care.

Education: The constitution stipulates that primary and secondary education is free. However, citizens and NGOs asserted that neither was completely free in

practice, and fees for parental associations, administration, and educational materials greatly reduced access for lower-income families.

Child Abuse: Violence against and sexual abuse of children were serious problems. As of November MIMDES reported 1,551 cases of violence against or sexual abuse of children five years of age and younger and 3,882 cases of abuse of children ages six to 11. Many abuse cases went unreported because societal norms viewed such abuse as a family problem to be resolved privately.

MIMDES' Women's Emergency Program received information through child-rights and welfare-protection offices and assisted child victims of violence. The MIMDES Children's Bureau coordinated government policies and programs for children and adolescents. At the grassroots level, more than 2,175 child-rights and welfare-protection offices resolved complaints ranging from physical and sexual abuse of children to abandonment and failure to pay child support. Provincial or district governments operated approximately half of these offices, while schools, churches, and NGOs ran the others. Law students staffed most of the units, particularly in rural districts. When these offices could not resolve disputes, officials usually referred cases to the Public Ministry's local prosecutor offices, whose adjudications were legally binding and had the same force as court judgments.

Sexual Exploitation of Children: The law prohibits child prostitution, penalizing perpetrators with five to 12 years in prison. There were many known cases of prostitution of minors, and the country was a destination for child sex tourism, with Lima, Cusco, and Iquitos as the principal locations. Involvement in child sex tourism is punishable by four to 10 years in prison. The Foreign Trade and Tourism Ministry disseminated information about the problem.

The minimum age for consensual sex is 18. Statutory rape law stipulates different rape offenses, including rape of a minor younger than 14, with penalties ranging from 25 years to life in prison. The penalty for conviction of involvement in child pornography is four to 12 years' imprisonment and a fine.

Child Soldiers: The minimum age for recruitment is 18. The country's military, no longer a conscripted force, bars the enlistment of minors, even those who obtain their parents' permission. The Human Rights Ombudsman's Office reported 18 cases in which the army admitted underage soldiers, generally recruits who misrepresented their age, a marked decrease from the 150 cases reported in 2009.

However, there were no reports of persons under 18 taking part in hostilities as part of a governmental armed force.

There also were cases of both forced and voluntary use of minors by the outlawed Shining Path organization. Reports persisted that the Shining Path used children in both combat and drug-trafficking activities. It appeared some of these children had been kidnapped from local towns, while others apparently were children of Shining Path members.

See also the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

### **Anti-Semitism**

Estimates of the Jewish population ranged from 2,500 to 4,000 persons. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The law prohibits discrimination against persons with disabilities and establishes infractions and sanctions for noncompliance with specified norms. The constitution addresses social security, health, education, and employment matters for persons with disabilities as well as their right to engage in business, trade, and industry. The law provides for the protection, care, rehabilitation, security, and social inclusion of persons with disabilities; mandates that public spaces be free of barriers and accessible to persons with disabilities; and provides for the appointment of a disability rights specialist in the Ombudsman's Office. In addition the law mandates that Internet sites maintained by governmental, institutional, and other service providers be accessible to persons with disabilities

and requires accessibility through the inclusion of sign language or subtitles in all educational and cultural programs on public television and in media alternatives in all public libraries.

In practice the government devoted limited resources to enforcement and training, and many persons with physical disabilities remained economically and socially marginalized. Governments at the national, regional, and local levels made little effort to provide access to public buildings. There were no interpreters for the deaf in government offices and no access to recordings or Braille for the blind. The majority of government Web sites remained inaccessible to persons with disabilities, and only the congressional television channel offered sign language interpretation.

The government failed to enforce laws safeguarding and attending to persons with mental disabilities in situations of social abandonment. The number of medical personnel providing services in psychiatric institutions was insufficient to care for all patients.

The Anne Sullivan Center for Persons with Disabilities reported cases of people who were denied the right to vote in the national elections during the year. One egregious case involved an individual who received training from elections officials on voting procedures but was subsequently labeled “disabled” and involuntarily removed from the voter registry.

A human rights ombudsman report published in December stated that many children with disabilities were unable to attend public schools due to lack of physical access. Nearly half of the country’s public schools had no entrance ramps, and 88 percent lacked restrooms usable by persons with disabilities. Relatively few teachers (39 percent) had received any training in inclusive education.

### **National/Racial/Ethnic Minorities**

The law provides all citizens equality before the law and forbids discrimination on the basis of race, national origin, or language. In actuality, however, persons of African (Afro-Peruvian) descent faced societal discrimination and prejudice. Despite constituting a large minority, Afro-Peruvians generally did not hold leadership positions in government, business, or the military, with the exception of the nation’s first female Afro-Peruvian cabinet member. Few Afro-Peruvians served as officers in the navy or air force.

In February the Ombudsman's Office published a report on the Afro-Peruvian community that cited structural discrimination and social exclusion as key barriers to integration into society and stated that Afro-Peruvians had particular difficulty accessing health and education services. NGOs alleged that employers often found ways to refuse to hire Afro-Peruvians or relegated them to low-paying service positions. The law prohibits the mention of race in job advertisements, although employers often required applicants to submit photographs.

### **Indigenous People**

The government did not provide sufficient resources to protect effectively the civil and political rights of indigenous persons, and indigenous communities continued to be politically, economically, and socially marginalized.

The constitution and law provide that all citizens have the right to use their own language before any authority by means of an interpreter and to speak their native language. Spanish and Quechua are official languages, but the government also recognizes 49 other indigenous languages. The National Program of Mobilization for Literacy continued teaching basic literacy and mathematics to poor men and women throughout the country. However, language barriers and inadequate infrastructure in indigenous communities impeded the full participation of indigenous persons in the political process. Indigenous women, especially from poor and rural areas, were particularly marginalized.

Many indigenous persons lacked identity documents. In many cases there were no government offices in the areas where they lived; in some instances government officials allegedly sought bribes in exchange for documents, which indigenous persons were unable or unwilling to pay. Without identity cards they were unable to exercise basic rights, such as voting and gaining access to health services and education. The infant mortality rate was higher in rural areas, where most indigenous persons lived (13 deaths per 1,000 live births, although as high as 21 in some regions), compared with the rate in urban areas (10 deaths per 1,000 live births), a difference mainly related to the economic situation and low education of indigenous persons. Public health centers were located primarily in urban areas, but during the year the government further expanded them to rural areas and incorporated roving teams.

While the constitution recognizes that indigenous persons have the right to own land communally, indigenous groups often lacked legal title to demarcate the

boundaries of their lands, making it difficult to resist encroachment by outsiders. By law local communities retain the right of unassignability, which should prevent the reassignment of indigenous land titles to nonindigenous tenants. However, some indigenous community members sold land to outsiders without the majority consent of their community. Moreover, in the absence of an effective representative institution, there were continuing societal conflicts between indigenous and nonindigenous persons, particularly concerning environmental issues and extractive industries. Additionally, mineral or other subsoil rights belong to the state, which often caused conflict between mining interests and indigenous communities.

The government conducted a series of consultations with indigenous communities to formulate a new forestry law, which Congress passed on June 15. The law establishes greater protections for the populations in the Amazon forest and mandates sustainable use of natural resources. In addition, on August 23, the new government approved the Law of Prior Consultation, which requires the government to conduct consultations with indigenous communities before granting exploration permits or concessions to extractive industries. While this law was expected to reduce the number of social conflicts, several outstanding issues remained before it could be fully implemented.

Many indigenous persons and others with indigenous physical features faced societal discrimination and prejudice. They were often the victims of derogatory comments and subjected to illegal discrimination in public places, including theaters, restaurants, and clubs.

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

There are no laws specifically prohibiting discrimination against persons based on sexual orientation, and such discrimination occurred. The Ministry of Interior's *Handbook of Human Rights Applied to the Civil Police* stipulates that police must respect human rights, especially of the most vulnerable groups, and refers explicitly to the rights of lesbian, gay, and transgender individuals. However, there were some instances during the year of official and societal discrimination based on sexual orientation in employment, housing, and access to education or health care. Government authorities, including police, sometimes harassed and abused lesbian, gay, bisexual, and transgender persons.

### **Other Societal Violence or Discrimination**

Persons with HIV/AIDS faced extensive discrimination and harassment. The Ministry of Health executed policies to combat discrimination based on HIV/AIDS status, including a four-year plan to prevent and control HIV/AIDS. Some of these policies enjoyed success, such as the treatment of HIV/AIDS, but observers maintained that education and prevention programs needed strengthening.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

With certain limitations, labor laws and regulations provide for freedom of association, protect the right to strike and bargain collectively, and prohibit antiunion discrimination and other forms of employer intimidation. Regulations allow workers to form unions on the basis of their occupation, employer affiliation, or geographic territory, without seeking prior authorization. However, the minimum membership required by law to form a union, 20 employees for a workplace-level union and 50 employees for a sector-wide union, is prohibitively high in some instances, particularly for small and medium-sized enterprises. The law also specifies that public- and private sector workers have the right to organize, bargain collectively, and strike, but it stipulates that the right to strike must be “in harmony with broader social objectives.”

Judges, prosecutors, and members of the police and military are not permitted to form or join unions. With the passage of Supreme Decree 065-2011 in July, there were advances to the rights to form unions and strike of more than 125,000 other public sector employees hired under administrative service contracts. The decree provides stronger guarantees of the right to unionize but does not address the concern that workers may not exercise their rights for fear of nonrenewal of their contract. The decree does not fundamentally change the nature of an administrative service contract, which is fixed term and renewable at the government agency’s discretion.

The law allows unions to declare a strike in accordance with their statutes. Private- and public sector union workers must give advance notice of a strike--at least five working days for private sector workers and 10 for the public sector--to employers and the Ministry of Labor. The law also allows nonunion workers to declare a strike with a majority vote as long as the written voting record is notarized and announced at least five working days prior to a strike.

Unions in essential public services, as determined by the government, are permitted to call a strike but must provide 10 working days' notice, receive the approval of the Ministry of Labor, be approved by a majority (50 percent) of workers, and provide a sufficient number of workers during a strike to maintain operations, as jointly determined by the union and labor authorities on an annual basis. Workers who strike legally cannot be fired for striking, but illegal strikers in the private sector can be fired on the fourth day of absenteeism and public sector strikers after an administrative procedure.

Unless there is a preexisting labor contract covering an occupation or industry as a whole, unions must negotiate with companies individually. The law establishes processes for direct negotiations and conciliation. If those fail the workers can declare a strike or request arbitration. On September 17, the ministry issued Supreme Decree No. 014-2011-TR, which more specifically outlines the process that authorizes the use of arbitration to end collective labor disputes. The decree gives a party the ability to compel the other party to submit to arbitration (whether worker- or employer-initiated) binding on employers whenever either the parties cannot reach an agreement in their first collective bargaining negotiation, or a party acts in bad faith during collective bargaining by delaying, hindering, or avoiding an agreement. If the parties disagree over whether or not a prerequisite for binding arbitration has been met, the law also allows a party to submit the matter to independent, nongovernmental arbitrators for an initial decision. A provision from Law 29497 requires labor conflicts to be resolved in less than six months.

The law prohibits employers from refusing to hire an individual because of union membership and also prohibits other forms of antiunion discrimination. Workers fired for union activity have the right to reinstatement. However, the law allows companies to fire employees without justification if they offer severance pay as fixed by law. The law forbids businesses from hiring temporary workers to perform core company functions, requires businesses to monitor their contractors with respect to labor rights, and imposes liability on businesses for the actions of their contractors.

The government did not effectively enforce the law in all cases, and employers engaged in antiunion practices. The practice of subcontracting allowed employers to avoid direct employment relationships and the associated legal requirements. This also limited the size of the company workforce, thus making it more difficult to form a union. Law 29245 and its progeny tighten the legal requirements for subcontracting companies and, if those requirements are not met, impose upon the principal company a direct employment relationship with subcontracted workers.

Nevertheless, anecdotal evidence suggested that the practical effect of the law was limited by its implementing regulations and the difficulties of labor inspections to detect outsourcing in the regions outside of Lima.

Employers continued to dismiss workers for exercising the right to strike. Dismissal of striking workers and delays in reinstatement of these workers, in both legal and illegal strikes, were the main repercussions that employers utilized to dissuade workers from going on strike. Workers faced prolonged judicial processes and lack of enforcement following strike-related dismissals. A local NGO reported that administrative issues at the Labor Ministry effectively negated a decree providing stronger protections for individuals hired under administrative services contracts who planned to unionize.

Labor conflicts were not always resolved within six months as required by law. Significant delays in the collective bargaining process due to employers' lack of interest in concluding agreements proved to be a common obstacle to compliance with worker rights to bargain collectively. The national tax agency union (SINAUT) alleged that the government failed to uphold unions' right to collective bargaining and denied workers' requests to enter into arbitration after the government-employer and workers failed to agree on wages and other issues during earlier negotiations. The government noted that the public sector budget law forbids it from negotiating economic matters. Discussions on the collective bargaining and arbitration process continued at year's end.

Unions were generally independent of government and political parties. According to labor leaders, permission to strike in both the private and public sectors was in some cases difficult to obtain. During the year the government declared 19 of 84 strikes legal. The Ministry of Labor justified its decisions to deem strikes illegal by citing union failure to fulfill the legal requirements. The International Trade Union Confederation noted that the law effectively legalizes unfair dismissals by allowing employers to fire workers without cause in return for severance pay.

Many businesses hired temporary or contract workers who were effectively barred from participating in those firms' unions due to fear that their contracts might not be renewed. Employers also circumvented restrictions regarding hiring temporary workers to perform core company functions in a number of ways. For example, the Peruvian Mineworkers Federation (FNTMMSP) attributed the nonrenewal of the contracts of seven drivers employed by the subcontractor MAMUT Peru to their union membership. There were two favorable court decisions, but at year's end the workers were awaiting their reinstatement. Subcontracting was used to

limit workers' right to organize and prevent the formation of formal employment relationships. The widespread use of subcontracting also made it more difficult to reach the 20-employee threshold necessary to form a union.

During the year the Textile Workers Union Federation (FTTP) reported violations of the Non-Traditional Export Regimen (Decree Law No. 22342-1978) in apparel manufacturing. In one example, on July 27, a judge from the Lima Constitutional Court No. 4 found that Texpop, S.A. failed to renew the contracts of 129 unionized workers, including two union leaders, in an action of antiunion discrimination. The judge found that many of these employees had been working for Texpop for up to a decade on short-term contracts. Notably, the judge also stated that the decree and its "exceptional" short-term contracting scheme were no longer necessary to support the growth of the country's textile and apparel sector. Texpop had not complied with the court's decision to reinstate the workers by year's end.

Regulations had the effect of limiting the associational rights of workers in "nontraditional" export sectors (fishing, wood and paper, nonmetallic minerals, jewelry, textile, and agro industry). For example, Legislative Decree No. 728-1997 sets out nine different categories of employment contracts under which workers can be hired. Another decree allows employers to hire workers on a series of short-term contracts without requiring that the workers be made permanent. Workers thus reportedly feared loss of their jobs if they unionized.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits forced or compulsory labor, but there was evidence that the government did not effectively enforce the law. Thousands of persons were estimated to be subjected to conditions of forced labor, mainly in mining, logging, agriculture, brick making, and domestic service. While information on victims was lacking, it was believed that men and boys were subjected to forced labor in mining (including gold mining), logging, and brick making, while women were most often found in domestic service. Both men and women were often found performing forced labor in agriculture, including the processing of Brazil nuts.

A multisectoral intervention took place in May in the Lima District of Carabayllo, where children were found working in informal mining. At that time no arrests were made; instead, the families were sensitized to the dangers and legal implications of child labor. A follow-up raid in December found 13 children working, and inspectors fined the employers.

According to media reports, a specialized division of the national police conducted more than 80 operations, in which they found at least 850 children subjected to forced labor, such as begging on the streets and selling candies, and detained 30 persons for exploiting minors. Local NGO CHS Alternativo stated that in the first half of the year, 98 cases of exploitative child labor were reported.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The legal minimum age for employment is 14. However, children between the ages of 12 and 14 may work in certain jobs for up to four hours per day, and adolescents between 15 and 17 may work up to six hours per day if they obtain special permission from the Ministry of Labor and certify that they are attending school. In certain sectors of the economy, higher age minimums were in force: age 15 in industry, commerce, and mining; and age 16 in fishing.

The Ministry of Labor may issue permits authorizing persons under age 18 to work legally. During the year the ministry granted 1,111 such permits to individuals ages 14 to 17. Parents must apply for the permits, and employers must have a permit on file to hire a youth.

The law specifically prohibits a number of occupations considered hazardous for children, including working underground, lifting or carrying heavy weights, accepting responsibility for the safety of others, and working at night. The law prohibits work that jeopardizes the health of children and adolescents; puts their physical, mental, and emotional development at risk; or prevents regular attendance at school.

The Ministry of Labor is responsible for enforcing child labor laws. The ministry stated that inspectors conducted routine visits without notice to areas where persons or organizations reported child labor problems. The government reported that it fined and suspended operations of firms that violated labor laws. From January through October, authorities fined 48 businesses 132,372 New Soles (\$50,000) for hiring 64 minors illegally or for not seeking the proper authorization.

The Office of the Ombudsman for Children and Adolescents (DEMUNA) worked with the Ministry of Labor to document complaints regarding violations of child labor laws. There were more than 2,175 DEMUNA offices in municipalities

throughout the country. DEMUNA also operated a decentralized child labor reporting and tracking system. MIMDES administered a program that sent specialized teachers to the streets to provide education and support to minors involved in begging and other kinds of work. MIMDES also continued to implement the Educadores de Calle program, a social program that assists street children between the ages of six and 17 with workshops and health, education, and legal services. The ministry continued and instituted several programs aimed at stimulating job creation and improving access to legal work for youth, including the ProCerti and ProJoven programs to educate youth regarding, respectively, their rights to work and training in a variety of employable skills. The new administration transformed these programs into the Vamos Peru program, focused on job training, technical assistance to entrepreneurs, and job placement; and the Peru Responsable program, aimed at fostering corporate social responsibility to create formal employment for youth.

Child labor remained a serious problem, especially in the informal sector. In 2010 the International Labor Organization estimated there were 2.8 million working children in the country, with 67.9 percent (1.9 million) performing the worst forms of child labor. Child labor was a serious problem in the informal sectors of gold mining, brick and fireworks manufacturing, stone extraction, timber, and agriculture, including the production of Brazil nuts and coca. According to media reports, children worked in hazardous conditions, including approximately 141,000 on the streets, 101,000 at night, and 87,000 with trash. In many cases the child worked alongside the parents in a family business, usually in areas and sectors cited above. In February there were media reports of children being exploited by local residents and parents near the northern frontier and forced into various forms of work, including street vending, begging, and bartending, as well as drug production and prostitution in Ecuador.

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

#### **d. Acceptable Conditions of Work**

The statutory monthly minimum wage was increased in August from 600 New Soles (\$220) to 675 New Soles (\$250). The government estimated the poverty line to be approximately 257 New Soles (\$95) a month per person, although it varied by region. The law provides for a 48-hour workweek and one day of rest and requires companies to pay overtime for more than eight hours of work per day and

additional compensation for work at night. There is no prohibition on excessive compulsory overtime. Noncompliance with the law is a punishable infraction.

The 2003 Domestic Workers' Act stipulates certain rights and benefits to which adult domestic workers are entitled, such as an eight-hour working day, no work on public holidays, 15 days of paid annual vacation, and salary bonuses in July and December. A 2009 decree prohibits discrimination against domestic workers and any requirement by employers for their domestic workers to wear uniforms in public places. Several violations of both provisions were reported during the year.

On August 25, the president and the minister of labor signed the Law on Workplace Health and Safety (Law No. 29783), which creates for the first time a National System for Health and Safety in the Workplace and places oversight with the ministry instead of the separate sectors. Regional councils and a National Council on Health and Security also were created, although they were not operational at year's end. The latter body incorporates the participation of employers and workers, including unions, who traditionally had no voice on these matters. The law also provides for heavier fines and criminal sanctions for violations. In cases of infractions, injury, or deaths of workers or subcontractors, the penalty is five to 10 years' imprisonment.

The Ministry of Labor enforced the minimum wage only in the formal sector. Many workers in the unregulated informal sector, approximately 60 percent of the total labor force, most of whom were self-employed, received less. Labor, businesses, and the government reported that the majority of companies in the formal sector generally complied with the law. The government often did not devote sufficient personnel, technical, and financial resources to enforce occupational safety and health regulations and other labor laws. There were 420 labor inspectors focused on the formal sector. Labor sources claimed that many inspectors were forced to pay for transportation to sites and often were harassed or refused entry by businesses. The labor inspector union SI-Peru demanded an increase in wages among other demands and requested that the ministry enter arbitration. Many fines went uncollected, in part because the ministry lacked an efficient tracking system and at times due to a lack of political will, according to a local labor NGO. According to the ministry, through November its inspectors conducted 28,252 visits generated by external complaints and 20,141 visits to worksites selected internally. In the first 11 months of the year, the ministry levied approximately 23.2 million New Soles (\$8.6 million) in fines on 3,385 companies for failure to place employees on labor rolls and for health and safety violations. Penalties were insufficient to deter violations.

Employers frequently required long hours from domestic workers and paid low wages. Allegations of abuse of subcontracted workers in the areas of wage and hour violations and associational rights continued to be reported. A local NGO reported that particularly problematic were gasoline stations, where workers frequently worked more than eight hours and in some cases were not paid overtime for extra hours.

During the year the Ministry of Labor and several unions continued a campaign to inform domestic workers of their rights. The National Federation of Mineworkers reported that in the first eight months of the year, 38 miners died in mining accidents in the formal mining sector, mainly as a result of rockslides, falls, and asphyxiation. In cases of industrial accidents, an agreement between the employer and worker usually determined compensation. A worker does not need to prove an employer's culpability to obtain compensation for work-related injuries. According to the ministry, there were 4,877 reported accidents, of which 1,696 were not serious, 3,036 were incapacitating, and 145 were fatal. The law does not provide workers the right to remove themselves from potentially dangerous situations without jeopardizing employment.