

CHILE 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Chile is a constitutional multiparty democracy. In 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 concerned excessive use of force and mistreatment by police; harsh and life-threatening prison conditions and treatment; and societal violence and discrimination against women, children, and lesbian, gay, bisexual, and transgender (LGBT) persons.

Additional human rights concerns in the country included harassment of the press, isolated reports of government corruption, anti-Semitism, discrimination against indigenous populations, and child labor.

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 during the year.

On December 28, Judge Miguel Vasquez indicted eight former army officers for the 1973 torture and subsequent execution of singer Victor Jara in the Estadio Chile in Santiago.

On June 19, the Santiago Appellate Court ruled that Judge Mario Carroza should investigate the killing of U.S. citizen Ronnie Moffit in a Washington, D.C., car bombing in 1976. The case was pending at year's end.

In March 2011 carabineros (national uniformed police officers) in La Ligua allegedly detained and beat 19-year-old Luis Santander. Santander died in the street of a ruptured spleen. No information regarding actions taken against police involved was available at year's end.

In August 2011 in the Macul neighborhood of Santiago, a member of the carabineros allegedly shot and killed 16-year-old Manuel Gutierrez. On February 13, information became public that three of the six carabineros involved, who had supposedly been discharged, continued on active duty. The case against former sergeant Miguel Millacura, who was indicted for using unnecessary force, was pending at year's end in the military justice system. Cases involving alleged unlawful conduct by carabineros, including human rights abuses against civilians, are tried in the military court system, as are allegations where the accused is a member of the armed forces.

The case against six persons charged in 2009 for allegedly poisoning former president Eduardo Frei Montalva in 1982 remained pending at year's end, and none of those charged had been detained.

b. Disappearance

There were no reports of politically motivated disappearances.

On August 24, Judge Jorge Zepeda indicted eight former carabineros and army patrol members for aggravated kidnapping in the 1985 disappearance case of U.S. citizen Boris Weisfeiler. The case remained pending at year's end; those charged remained free on bail.

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

Although the constitution prohibits such practices, credible nongovernmental organizations (NGOs) received multiple reports of excessive force, abuse, and degrading treatment by carabineros, investigative police (PDI) members, and prison guards, few of which resulted in convictions. The PDI reported receiving 192 complaints through October alleging misconduct by its agents. The PDI opened 120 administrative investigations, resulting in the separation from service of one individual, 11 temporary suspensions, and 20 administrative sanctions. No PDI personnel were convicted during the year of crimes related to misconduct on the job.

On August 29, the chief of police announced four carabineros would face administrative discipline for forcing students involved in protests, including two minors, to strip naked while in police custody. The same week, carabineros were

accused of sexually assaulting a student during another protest. There was no known outcome in these incidents by year's end.

Through July the prison system (Gendarmeria) opened administrative investigations into 69 allegations of abuse during the year. Eight of these cases were closed and 61 were pending at year's end.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening. The 2012 Diego Portales University (UDP) Law School's annual report on human rights stated that violence, including torture, occurred and prison officials justified it as necessary to maintain order. The National Institute for Human Rights (INDH) noted in its 2012 annual report that the Gendarmeria abused the use of solitary confinement, including among those in pretrial detention. Violence among inmates was also common.

Physical Conditions: Prisons were overcrowded. The government reported that at the end of the year 46,984 prisoners were in prisons designed to hold 39,844 inmates. Prisoners included 3,742 women (held in separate sections of the same facilities as men or in separate facilities). At the end of July, 7,304 minors were in prisons (held separately from the adult population). Many prisons were antiquated and offered substandard sanitary conditions, inadequate food, and insufficient medical services. According to the nongovernmental organization (NGO) Fundacion Paz Ciudadana, inadequate heating in many prisons remained a serious problem, and inadequate lighting and ventilation, as well as exposed sewage, also affected inmates at some prisons.

Officials reported 133 prisoner deaths during the year. Violence among inmates accounted for 42 deaths, while accidents took three lives. In isolated instances prisoners died under circumstances appearing to indicate neglect by authorities. For example, in February two prisoners in the El Manzano II prison in the south-central region died after contracting a disease spread by contact with rodent droppings and urine. Prisoners with HIV/AIDS and mental disabilities reportedly failed to receive adequate medical attention in some prisons. Homosexual individuals were mistreated. According to the rights organization Movement for Homosexual Integration and Liberation (MOVILH) and various media outlets, in November an official commission reported that gay prisoners were denied hygienic services and forced to defecate in sacks.

Administration: Recordkeeping on prisoners was generally adequate, and authorities used alternative sentencing for nonviolent offenders, such as conditional release for community service. There were no prison ombudsmen. 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 inhumane conditions. Authorities generally investigated credible allegations and documented the results in a publicly accessible manner. The government usually investigated and monitored prison and detention center conditions.

Monitoring: 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.

Improvements: The government continued implementing prison reforms initiated in 2011. These included transferring inmates between prisons and issuing pardons to certain inmates to reduce overcrowding. In late November the prison director stated that overcrowding had decreased from 68 to 35 percent. Many prisoners received new mattresses, beds, and blankets. Improved health and safety measures were also implemented, including significant efforts to prevent and respond to prison fires.

In June the Gendarmeria established a unit for the protection and promotion of human rights. The unit was created by an agreement between the minister of justice, director of the prison system, and head of the INDH. The unit is under the direction of the Gendarmeria's Technical Directorate, which in turn the national director of the prison system oversees. The unit is charged with instilling a culture of respect for human rights and with monitoring and reporting on human rights matters within the penitentiary system. During the year the unit held two workshops, two seminars, and other training programs at various prisons for current and future prison guards.

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 practice for law enforcement and maintenance of order within the country. The Ministry of the Interior oversees both forces.

Civilian authorities generally maintained effective control over the carabineros and the PDI, and the government has mechanisms to investigate and punish abuse and corruption. However, Human Rights Watch reported continued concern that military courts were not fully independent and that investigations and trials of police accused of abuse against civilians continued to be conducted under the military justice system. 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 hire their own lawyer. Authorities must expedite notification of the detention to family members. If authorities do not inform the detainees of their rights upon detention, during the detention control hearing the judge can declare the process unlawful.

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

Pretrial Detention: The average duration of pretrial detention in 2011 was 189 days. However, during the first six months of the year, the average length of pretrial detention was 294 days.

e. Denial of Fair Public Trial

The constitution 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 provided professional legal counsel to anyone seeking such assistance. When human rights organizations or family members requested, 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. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf, although the law provides for secret witnesses in certain circumstances. Defendants and their attorneys generally have access to government-held evidence relevant to their cases, with some exceptions.

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 retained antiquated and inefficient procedures. The average civil trial lasted approximately five years, and civil suits could continue for decades. Administrative and judicial remedies are available for alleged wrongs.

Regional Human Rights Court Decisions

On March 23, the Inter-American Court of Human Rights determined that the government was guilty of discrimination and human rights violations after the Supreme Court stripped Judge Karen Atala of her custody rights for her three daughters because she is a lesbian. The government agreed to pay 24.1 million pesos (\$49,600) to Atala and 5.8 million pesos (\$12,000) in court fees.

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

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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

Violence and Harassment: During the year there were reports of police repression of journalists, including unlawful detention and physical attacks during protests.

On February 28, authorities detained *Santiago Times* photographer Jason Suder for photographing clashes between police and protesters during a student demonstration despite his display of a press pass; authorities also attempted to take his camera's filmcard. The police refused to explain why he was detained.

On March 13, Rodrigo Labarca, a journalist for the regional radio station Radio Santa Maria stated that police in the Aysen region physically assaulted him while

he was reporting on protests related to the HidroAysen Dam project. No investigation or charges were filed in the case.

Libel Laws/National Security: The penal code carries criminal sentences of six months to five years in jail for libel or slander.

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 without judicial oversight. According to the International Telecommunication Union, 54 percent of individuals used the Internet, and 39 percent of households had access to the Internet in 2011.

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 government routinely granted permits for 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 removed or detained some protesters.

Freedom of Association

The constitution 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.

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

The constitution provides for freedom of internal movement, 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 law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. Between January and October, 135 residents received recognized refugee status.

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 through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: On October 28, mayors and city council members were elected nationwide in free and fair elections, the first following a December 2011 change in election laws making voter registration automatic and voting voluntary. The Electoral Court conducted public recounts in some municipalities and confirmed results. In 2010 voters chose Sebastian Pinera Echenique of the center-right Coalition for Change as president in free and fair run-off elections. In 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 six women in the 21-member cabinet. Indigenous people were active on the municipal level. However, social, institutional, and cultural barriers limited indigenous participation in national elections.

Section 4. Corruption and Lack of Transparency in Government

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

In October authorities arrested 10 PDI detectives for illegally detaining suspects, giving false testimony, drug trafficking, and extortion. Four additional PDI officials were forced to resign. The investigation continued at year's end.

Judge Antonella Sciaraffia remained suspended following allegations of fraud in December 2011. The investigation was pending at year's end.

A regulation 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 law requires that all declarations be made public, provides sanctions for noncompliance, and clearly identifies which assets must be declared; however, it does not mandate a unit to monitor disclosures.

The constitution requires the government and its agencies to make all unclassified information about their activities available to the public. The government granted citizens and noncitizens, including foreign media, access to all unclassified information. The law regulates government transparency and provides public access to information. The law applies to ministries; regional, provincial, and municipal level governments; the armed forces, police, and public security forces; and public enterprises where the state owns more than 50 percent or holds a majority of appointments on the board of directors. The law has a list of five exceptions for nondisclosure. Responses to any requests for information must be delivered within 20 business days, and there is no cost for the request. In cases of noncompliance, the head of the organization will be fined between 20 percent and 50 percent of his or her monthly salary. An autonomous transparency council provides for the right of access to information and issues rulings on cases in which information is denied.

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 were generally cooperative and

responsive to their views, although some indigenous rights groups claimed their views were disregarded.

Government Human Rights Bodies: The INDH, established in 2010, operated independently of the government, issued public statements, and proposed changes to government agencies or policies to promote and protect human rights. On December 10, the INDH released its 2012 annual report, which noted continued concern over several human rights problems, including prison conditions, societal abuses against minorities, excessive use of force by police during protests, and the continued application of the antiterrorism law, including in cases involving members of indigenous communities. The Senate and Chamber of Deputies also have standing human rights committees responsible for drafting human rights legislation.

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

On July 24, Congress approved the Anti-Discrimination Law, which gives civil legal remedies to victims of discrimination based on race, ethnicity, nationality, socioeconomic situation, language, ideology or political opinion, religion or belief, association or participation in union organizations or lack thereof, gender, sexual orientation, gender identification, marriage status, age, affiliation, personal appearance, and sickness or physical disability. The law also increases criminal penalties for acts of violence based on discrimination. 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 violations were reported.

The law protects the privacy and safety of the victim making the charge. Between January and September the Public Prosecutor's Office investigated 3,879 cases of rape, and the courts handed down 499 rape convictions between January and July. Experts, however, believed that most rape cases went unreported due to fear of further violence, retribution, and social stigma.

The law criminalizes both physical and psychological domestic 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

(approximately \$1,145). 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 due to fear of further violence, retribution, and social stigma. During the year 35.7 percent of women admitted to having suffered some kind of domestic violence throughout their lives, according to the National Women's Service (SERNAM).

The government added social media to the domestic violence media campaign launched in 2010. SERNAM operated 96 assistance centers and 24 women's shelters, and it maintained partnerships with NGOs to provide training sessions 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 24-hour 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 classified as a misdemeanor, and 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. From January to August, the Labor Directorate received 98 complaints of sexual harassment reported by individuals and companies, and 15 companies were sanctioned for procedural noncompliance.

Reproductive Rights: Couples and individuals had the right to decide freely and responsibly the number, spacing, and timing of their 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 it.

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 continued to report that in some cases health-care workers pressured or forced HIV-positive women into surgical sterilization.

Women faced significant obstacles to preventing HIV infection, including social and cultural norms; gender-based violence; and limited public-health awareness, outreach, and education. The law prohibits discrimination against persons 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, and refusal of treatment. On November 30, the Ministry of Health launched a national campaign to encourage citizens to be tested for HIV.

Discrimination: Women possess most of the same legal rights as men. However, discrimination in employment, pay, owning and managing businesses, and education persisted. There were no known reports of discrimination in credit or housing. However, 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. Legislation remained pending five years after a 2007 agreement with the Inter-American Commission on Human Rights (IACHR) to modify the “conjugal society law” to give women and men equal rights and responsibilities in marriage. 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 law providing for equal pay for equal work, the average woman's annual income was 52 percent lower than that of men, according to the World Economic Forum's 2012 *Gender Gap Report*. Only 47 percent of women participated in the labor force during the year (compared with 78 percent of men), and women were more likely to work in the informal sector. However, the report also indicated that 61 percent of women enrolled in tertiary education, compared with 57 percent of men. SERNAM is in charge of protecting women's legal rights and is the only government office that deals specifically with discrimination against women.

The law provides for six months' maternity leave, including for noncontracted temporary workers. The law includes 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.

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 remained a significant problem. From January to September, the Public Prosecutor's Office initiated investigations into 9,568 cases of child sexual abuse. On June 9, police arrested Juan Romeo Gomez, a teacher at a private daycare center accused of sexually abusing a four-year-old girl. Subsequently he was indicted for 77 cases of sexual abuse of children from 2010 to 2012. Gomez remained in pretrial detention, and the case was pending at year's end. The National Children's Service (SENAME) reported sex abuse of children under age 14 rose 22 percent from 2011 levels. On June 19, a law went into effect that makes those convicted of child sexual abuse permanently ineligible for any position, job, career, or profession in educational settings or requiring direct and habitual contact with children under age 18. In addition the law instituted a public registry of these sex offenders, which went into effect on October 10. Educational and other establishments that work with children are obligated to consult the registry as part of the hiring process.

Child Marriage: The legal minimum age of marriage is 18 (16 with parental consent). The rate of marriage for girls and boys under age 18 was not available.

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 (\$2,528 to \$2,854) in cases

where exploitation is habitual, or if there was deceit or abuse of authority or trust. (The monthly tax unit, or UTM, is a legally defined currency unit, indexed to inflation, equivalent to \$82.) The legal age for consensual sex is 18. 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 to 20 years in prison. Child pornography is a crime. Penalties for producing child pornography range from 541 days to five years in prison.

Commercial sexual exploitation of children and adolescents was a problem, and children engaged in prostitution with and without third-party involvement. From January to September the Public Prosecutor's Office initiated 186 investigations into commercial sexual exploitation of children, and the courts handed down 50 convictions. On May 18, SENAME, the Ministry of Justice, and civil society organizations launched a Second Plan of Action Against the Commercial Sexual Exploitation of Children for 2012 to 2014.

On November 15, the PDI arrested 16 persons allegedly involved in a ring for commercial sexual exploitation of children. The Public Prosecutor's Office accused four women of sexually exploiting minors and 12 men of soliciting sexual services from minors. An investigation was pending at year's end, and the accused remained in pretrial detention.

Institutionalized Children: In a report released in August 2011, family court judges described several substandard conditions in some children's shelters. There were no reports of progress in these shelters by year's end.

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

Anti-Semitism

The Jewish community numbered 20,500. Numerous anti-Semitic incidents took place throughout the year. Jewish government officials reported receiving anti-Semitic correspondence during the year. Violence, vandalism, verbal slurs, and online harassment were reported, and authorities and Jewish community groups noted an increase in anti-Semitic and pro-Nazi comments made via social media, such as Facebook and Twitter.

On January 21, a Jewish man was beaten and verbally assaulted at a party in Ritoque. Others at the party also denied the victim assistance and did not take him to the hospital. The Jewish Community of Chile (CJCH) condemned the act.

The Jewish community noted an increase in anti-Semitism throughout the year, and leaders took precautions to ensure their safety. On August 19, a neo-Nazi group attacked a 14-year-old boy in the Araucania Region. The subjects drew a swastika on his stomach with a syringe. On August 24, Mauricio Abu-Gosh, president of the Palestinian Federation of South America, which represents more than 300,000 Chileans of Palestinian descent, made anti-Semitic remarks to the media, comparing Zionists to Nazis. Also, according to the CJCH, synagogues and schools were marked with swastikas and the phrase “Juden raus,” meaning “Jews out.” These events coincided with two Jewish holidays in September, Yom Kippur and Rosh Hashanah.

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, air travel and other transportation, 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. The law provides for universal and equal access to buildings, information, and communications. However, most public buildings did not comply with legal accessibility mandates. The public transportation system, particularly outside Santiago, did not adequately provide accessibility for persons with disabilities. During the year, however, TranSantiago, the main system of public transportation, instituted changes to comply with the law better, including new ramp systems and elevators at certain metro stations.

The National Service for the Disabled (SENADIS) reported that children with disabilities attended school (primary and secondary) but also noted that there were

difficulties in ensuring these children received equal access to schooling at private institutions. SENADIS also reported that those with disabilities had fewer opportunities to continue with their education following secondary school. There were no reports of patterns of abuse in educational and mental health facilities.

SENADIS operates under the jurisdiction of the Ministry of Planning, has responsibility for protecting the rights of persons with disabilities, and advocates and promotes integration and protection policies throughout all government agencies. During the year the agency also further developed its “access to justice” program, which included mapping public and private institutions that can provide assistance to persons with disabilities and training to justice officials handling such cases. It also created an interagency group to address the rights of those with disabilities in prison.

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 2012 INDH annual report noted that, despite government policies designed to address the situation of social and political exclusion of indigenous peoples, systematic inequities persisted. 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 increased instances of violence between Mapuche and landowners, logging companies, and police in the southern part of the country. The actions usually took the form of protests, including the use of violence, regarding historic Mapuche concerns about their rights to ancestral lands. Mapuche activists and police forces stationed in the area to guard private lands sometimes engaged in violent skirmishes. Both the 2012 UDP annual report on human rights and the 2012 INDH annual report criticized the use of the antiterrorism law in the context of intercultural conflict.

There were numerous reports of police abuse against Mapuche individuals and communities, including against children. On April 24, UNICEF expressed its concern that a Mapuche adolescent was injured on April 20 during a police raid.

On August 2, the IACHR released a statement condemning the July 23 use of violence by police against Mapuche children, including shooting injuries to children as young as 12 and the humiliation, beating, and sexual abuse of three girls under the age of 12. The IACHR urged the government to sanction those responsible and adopt mechanisms to avoid the excessive use of force by government agents.

The Equitas Foundation noted that sentences by the military justice system against police convicted of crimes against Mapuche were noticeably more lenient than sentences for Mapuche individuals. There was very little publicly available information on cases tried in the military system. This lack of transparency led to questions regarding justice for victims of abuse by police and military personnel.

The NGO Citizens' Observatory 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.

On August 18, a military court overturned a 2011 military court conviction and acquitted special operations police corporal Miguel Patricio Jara of the use of unnecessary force resulting in the 2009 death of Mapuche protester Jaime Mendoza. An appeal to the Supreme Court was pending at year's end.

The exploitation of energy, minerals, and timber occurred near indigenous communities, including mining projects in the northern regions where Aymara, Atacameño, and Diaguita peoples live, and timber exploitation in the south where the Mapuche live. Indigenous lands are effectively demarcated, but some indigenous Mapuche communities demanded restitution of privately and publicly owned traditional lands. Mining projects in the north generated judicial actions by indigenous communities due to concerns regarding potential contamination of the water supply and environment as well as project demands for water in desert environments. Timber plantations in the south also generated concerns regarding their effects on the water table due to the introduction of nonnative species. Both the 2012 INDH annual report and the 2012 UDP annual report on human rights emphasized the need to improve consultation mechanisms for indigenous peoples in the planning process of projects near indigenous communities.

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

MOVILH reported 148 cases of discrimination due to sexual orientation and gender identity during the year, compared with 186 reported cases in 2011. MOVILH noted a worsening in the acts of violence against LGBT individuals between 2011 and 2012, including three killings, 20 acts of physical or verbal aggression, six incidents involving aggression and/or arbitrary police arrest, nine incidents of employment discrimination, 10 incidents of education discrimination, and 12 acts of violence or forced community segregation by family or friendship circles.

On March 4, four alleged neo-Nazis attacked and tortured Daniel Zamudio for approximately six hours because of his sexual orientation and carved a swastika into his body. Zamudio died on March 28 from his injuries. At year's end the alleged perpetrators were charged with murder and remained in detention.

On July 20, seven individuals attacked 16-year-old Valeska Salazar Gajardo in her home in Santa Juana and again in the hospital, leaving the victim with numerous injuries to her scalp and face. The attackers consisted of family and friends of Salazar's former girlfriend. The perpetrators told police that they attacked Salazar for "turning" their relative into a lesbian. A police investigation continued 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

The law, including related regulations and statutory instruments, protects the right of workers to form and join independent unions of their choice without previous authorization, with the exception of police and military personnel. Union leaders are restricted from being members of political parties, and the Directorate of Labor has broad powers to monitor unions' financial accounts and financial transactions.

With some limitations the law also protects the right to strike, protects the right of collective bargaining, and prohibits antiunion practices. The law prohibits public employees from striking. While employees in the private sector have the right to strike, the law places some restrictions on this right. For instance, an absolute

majority of workers must approve strikes. Strikes by agricultural workers during the harvest season are prohibited. The law also proscribes employees of 101 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.

The law protects collective bargaining, with exceptions for some companies regulated in the labor code, such as public institutions, private and public institutions whose budget is dependent upon the Defense Ministry, companies that are unable to negotiate at certain times of the year, and companies in which employees are unable to strike, such as health care and public utilities. The law guarantees collective bargaining rights only at the company level. 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 all agree to negotiate under such terms.

The government generally enforced labor laws effectively. Nevertheless, the Labor Directorate under the Ministry of Labor commented on the need for more inspectors and noted that financial penalties did not always deter companies from repeating offenses. NGOs reported that cases in the new labor tribunals system took approximately three months, although it was difficult for judges to enforce decisions in favor of workers for various reasons, including when the company's assets were in a different name or juridical entity which could not be located.

Freedom of association and the right to collective bargaining were generally respected. The government protected the right to strike. 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, such as replacing workers on strike and illegal separation of union members, 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 granting collective bargaining rights.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, and violators may be subject to imprisonment for a period of five years and one day to 15 years. In general the government effectively enforced the law. The 2011 case against former senator and businessman Francisco Javier Errazuriz for allegedly subjecting 56 Paraguayans, including minors, to forced labor in the agriculture sector remained under investigation at year's end, with delays due to the defendant's poor health.

Forced labor continued to occur, primarily for domestic servants. Some children were forcibly employed in the drug trade. Foreign citizens, including women and children, were subjected to forced labor, notably in domestic service, 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 ages 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 the child's 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 effectively enforced regulations in the formal economy but did not inspect or enforce such regulations in the informal economy. From January to August the Ministry of Labor imposed some form of sanction in 146 cases involving violations of child labor laws. Sectors in which higher numbers of violations occurred included agriculture, hotels and restaurants, and construction. Infractions included contracting a minor under 18 without the authorization of the minor's legal representative, failure to register a minor's contract with the Ministry of Labor, and contracting a minor under 15 for activities not permitted by law.

Penalties and inspections were not generally seen as sufficient to deter grave violations that mostly occurred clandestinely or in the informal economy.

The government devoted considerable resources and oversight to child labor policies. With accredited NGOs, SENAME ran 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 continued to work with international institutions, such as the International Labor Organization, and other ministries to conduct training on identifying and preventing the worst forms of child labor. 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. The committee met regularly throughout the year, and brought together civil society organizations and government agencies in a coordinated effort to raise awareness, provide services to victims, and protect victims' rights. 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. During the end of 2011 and the first semester of 2012, in the Maule, Tarapaca, and Valparaiso regions, the Task Force distributed protocols to involved government agencies for identifying, providing integral protection to, and preventing children from doing dangerous work in the agricultural sector.

Child labor was a problem in the informal economy and agriculture. From September 2011 until August 2012, the National Registry of the Worst Forms of Child Labor registered 718 cases of children working in dangerous or intolerable conditions. Commercial sexual exploitation of children continued to be a problem (see section 6, Children). 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. 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.

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

In July the minimum wage increased to 193,000 pesos (\$397) a month for all occupations, including domestic servants. The minimum wage for workers over age 65 and under 18 was 144,079 pesos (\$296). The November 2011 official poverty level, the latest government figure available, was 72,098 pesos (\$148) a month.

The law sets the legal workweek at six days or 45 hours. The maximum workday is 10 hours (including two hours of overtime pay), but some categories of workers, such as managers; administrators; employees of fishing boats; restaurant, club, and hotel workers; drivers; domestic workers; airplane crews; telecommuters or employees who work outside of the office; and professional sportspersons are exempt from hours of work restrictions. 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 workdays, 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 workweek, and workers are due time and a half pay for any overtime performed.

The law establishes occupational safety and health standards, which are applicable to all sectors. Special safety and health norms exist 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.

The Labor Directorate under the Ministry of Labor is responsible for enforcing minimum wage and other labor laws and regulations, and it did so effectively in the formal economy. 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 524 labor inspectors during the year. Both the Labor Directorate and NGOs reported the need for more inspectors to enforce labor laws throughout the country, particularly in remote areas. NGOs commented that inspectors and labor tribunal judges needed more training and that a lack of

information and economic means generated an inequality between parties in cases before the tribunals. For large corporations, fines were not considered to have a deterrent effect. The Labor Directorate worked preventively with small and medium-sized businesses to assist in their compliance with labor laws.

Minimum wage violations were most common in the real estate and commerce sectors. In 2011 approximately 8 percent of the workforce received the minimum wage or less.

As of September the sectors with the most infractions in safety and health standards were construction, commerce, and industrial manufacturing. Between January and September, 303 workplace fatalities and 1,730 serious accidents were registered. The construction and transport sectors suffered the most accidents during the year. Immigrant workers in the agricultural sector were the group most likely to be subject to exploitative working conditions.