

CHILE 2019 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Chile is a constitutional multiparty democracy. In 2017 the country held presidential elections and concurrent legislative elections, which observers considered free and fair. Former president (2010-14) Sebastian Pinera won the presidential election and took office in March 2018.

The Carabineros and the Investigative Police have legal responsibility for law enforcement and maintenance of order, including migration and border enforcement, within the country. The Ministry of the Interior and Public Security oversees both forces. Civilian authorities generally maintained effective control over the security forces.

Significant human rights issues included reports of arbitrary or unlawful killings; torture by law enforcement officers; violence against lesbian, gay, bisexual, transgender, and intersex persons; and violence against indigenous persons.

The government took steps to investigate and prosecute officials who allegedly committed abuses.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were isolated reports that the government or its agents committed arbitrary or unlawful killings.

Five persons were killed by security forces in separate incidents during widespread civil unrest in October and November. The National Institute of Human Rights (INDH), an independent government authority that monitors complaints and allegations of abuse, filed civil rights cases for, and public prosecutors opened criminal investigations into, all five of the deaths. Three soldiers were arrested in conjunction with three of the deaths; investigations into all five cases and the court proceedings against the arrested soldiers were underway as of November.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

In July an appeals court heard arguments in the 1985 disappearance case of U.S. citizen Boris Weisfeiler. As of November no verdict had been announced.

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

Although the constitution and law prohibit such practices, there were reports of excessive force, abuse, and degrading treatment by law enforcement officers. During widespread protests and civil unrest in October and November, the INDH filed more than 350 criminal accusations that law enforcement officials had committed acts of torture during detention of protesters (including student protesters), during criminal arrests, or at prisons, including more than 270 accusations of torture and 60 of sexual abuse or assault. The National Prosecutor's Office announced it was investigating more than 1,000 allegations of abuse by security forces during the same period.

During the civil unrest, more than 200 civilians suffered ocular trauma due to Carabineros' use of shotguns loaded with nonlethal ammunition, according to the INDH. On November 8, 21-year-old Gustavo Gatica was hit in both eyes. On November 19, Carabineros officials announced revisions to use-of-force protocols to limit the use of shotguns during protests.

On September 5, a criminal court convicted former Carabiniero Francisco Arzola of repeated torture and abuse, primarily of street vendors, from 2016 to 2018, while stationed in the Estacion Central municipality in the Santiago metropolitan region. The INDH filed the original criminal accusation against Arzola that led prosecutors to expand their investigation to the entire police unit, the members of which arbitrarily arrested and provided false evidence to frame victims. On July 23, 12 other members of Arzola's team were charged with torture and falsification of documents, five of whom were placed in pretrial detention. The investigation was pending as of November.

Prison and Detention Center Conditions

Conditions in many prisons were poor, due to antiquated infrastructure, overcrowding, substandard sanitary infrastructure, and inadequate water supplies. Human rights organizations reported that violence, including torture, occurred, as well as an entrenched practice of unsanctioned punishment.

Physical Conditions: The prison population was unevenly distributed across the prison system, with approximately 50 percent of prisons operating beyond maximum capacity, while others were underpopulated. Overpopulation and antiquated, inadequate facilities led to comingling of pretrial detainees and convicted prisoners as a common practice. The INDH reported that prisoners were often confined to their cells for the majority of the day, a practice that did not allow sufficient time for participation in rehabilitation and readjustment programs.

Prisoner and human rights groups continued to investigate alleged abuse or use of excessive force against detainees, and media covered some of the allegations. During the widespread civil unrest in October and November, the INDH filed more than 60 criminal accusations of alleged sexual abuse of detainees while in custody, including with regard to being forced to strip naked in front of officers, sexual threats, touching, and, in four cases, accusations of rape.

Administration: Independent government authorities, including the INDH, generally investigated credible allegations of mistreatment. The government usually investigated and monitored prison and detention center conditions.

Independent Monitoring: The government permitted prison visits by independent human rights observers, and such visits took place at both government and privately operated facilities.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government did not always observe these requirements.

Arrest Procedures and Treatment of Detainees

Only public officials expressly authorized by law may arrest or detain citizens, and they 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.

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 for detainees who do not hire their own lawyer. Authorities must expedite notification of the detention to family members. If authorities do not inform detainees of their rights upon detention, the judge can declare the process unlawful during the detention control hearing.

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.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced that right.

Defendants enjoy a presumption of innocence and have a right of appeal. They have the right to be informed promptly of charges, to have time to prepare their defense, and not to be compelled to testify or admit guilt. Three-judge panels form the court of first instance. The process is oral and adversarial, 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 have the right to free assistance from an interpreter. 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 assistance, the nongovernmental organization (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 may confront or question adverse witnesses and present witnesses and evidence on their behalf, although the law provides for secret witnesses in certain circumstances.

For crimes committed prior to the implementation of the 2005 judicial reforms, criminal proceedings are inquisitorial rather than adversarial. As of November, one inquisitorial criminal court remained open.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

In civil matters there is an independent and impartial judiciary, which permits individuals to seek civil remedies for human rights violations; however, the civil justice system retained antiquated and inefficient procedures, which resulted in civil trials lasting years, if not decades. Administrative and judicial remedies are available for alleged wrongs. Cases involving violations of an individual's human rights may be submitted through petitions by individuals or organizations to the Inter-American Commission of Human Rights, which in turn may submit the case to the Inter-American Court of Human Rights. The court may order civil remedies, including fair compensation to the individual injured.

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

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Press and Media, Including Online Media: Independent media were active and expressed a wide variety of views without restriction.

In August reports emerged that the Army Intelligence Directorate wiretapped investigative journalist Mauricio Weibel, who was researching alleged corruption in the army, as well as four active or retired officers suspected of leaking documents to him. The directorate's leadership stated the wiretaps were authorized by judicial authorities in 2016 and 2017, citing "national security" concerns. Both an internal army investigation and a congressional inquiry were launched. The investigations continued as of November.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, and the government generally respected those rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation; and the government generally respected these rights.

e. Internally Displaced Persons

Not applicable.

f. 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, including access to education and health care.

Durable Solutions: In 2018 the government announced a Democratic Responsibility visa for Venezuelans fleeing the humanitarian crisis in Venezuela. In June the government halted visa-free entry for nonimmigrant Venezuelans. Under the government's immigration reform, the Democratic Responsibility Visa is the primary means for Venezuelans to work or establish legal residency in Chile. In 2018 the government began facilitating the voluntary repatriation of more than 1,200 Haitians to Port-au-Prince under its Humanitarian Plan for Orderly Returns program. Haitians wishing to participate must sign a declaration that they will not return to Chile within nine years of departing.

g. Stateless Persons

Not applicable.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The country held concurrent presidential and legislative elections in November 2017, both of which observers considered free and fair. The center-right candidate, Sebastian Pinera, won the December 2017 runoff election against the center-left independent candidate Senator Alejandro Guillier.

Participation of Women and Minorities: No laws limit participation of women or members of minority groups in the political process, and they did participate.

The Mapuche minority group, which represents approximately 9 percent of the population, has historically been underrepresented in government. In 2017 two candidates from the Mapuche indigenous group were elected to congress--one to

the 43-seat Senate and one to the 155-seat Chamber of Deputies (see section 6, Ethnic Minorities).

Section 4. Corruption and Lack of Transparency in Government

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

Corruption: Two former commanders in chief of the army, Humberto Oviedo and Juan Miguel Fuente-Alba, were arrested and charged with corruption. The two were alleged to have embezzled or misappropriated more than eight billion pesos (CLP) (\$11.5 million) during their terms in command of the army (2010-18). They were the highest-ranking officers to be charged in a large-scale criminal investigation that, according to the National Prosecutor's Office, involved nearly 600 current or former officers suspected of misappropriation of funds as of November 2018. The investigation and related criminal prosecutions continued as of October.

On September 6, the Public Ministry announced additional charges against former director general of the Carabineros Eduardo Gordon, increasing the amount of funds he allegedly misappropriated to CLP 70 million (\$96,000), up from the CLP 21 million (\$30,000) originally announced in 2018. The charges stemmed from alleged misappropriation of representational expenses for personal use during Gordon's time as director general of the Carabineros in 2010 and 2011. As of October the investigation was in progress.

Financial Disclosure: Law and regulation require income and asset disclosure by appointed and elected officials. Declarations are made available to the public, and there are administrative sanctions for noncompliance.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 cooperative and responsive to their views.

Government Human Rights Bodies: The National Institute for Human Rights (INDH) operated independently and effectively, issued public statements and an annual report, and proposed changes to government agencies or policies to promote and protect human rights. The government enacted legislation designating the INDH as the country's National Preventive Mechanism against Torture under the Optional Protocol to the UN Convention against Torture.

The Senate and Chamber of Deputies have standing human rights committees responsible for drafting human rights legislation.

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

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, 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 criminalizes both physical and psychological domestic violence and protects the privacy and safety of the victim making the charge of rape or domestic violence.

Family courts handle cases of domestic violence and penalize offenders with fines up to CLP 720,000 (\$1,065). Additional sanctions include eviction of the offender from the residence shared with the survivor, 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 days' to 15 years' imprisonment. Murder in the context of domestic violence is defined as femicide in the criminal code, and penalties range from 15 years to life in prison. The government generally enforced the laws against domestic violence effectively.

The Ministry of Women and Gender Equality ran a victims' assistance and protection program that operated psychological, legal, and social assistance centers and shelters throughout the country and maintained an emergency hotline.

Sexual Harassment: Workplace sexual harassment is not a criminal offense, with penalties outlined exclusively in the labor code. By law sexual harassment in the

workplace is cause for immediate dismissal from employment. The law requires employers to define internal procedures, or a company policy, for investigating sexual harassment, and employers may face fines and additional financial compensation to victims if it is shown the company policy on sexual harassment was not followed. The law provides protection to those affected by sexual harassment by employers and coworkers. The law provides severance pay to individuals who resign due to sexual harassment if they have completed at least one year with the employer.

On May 3, a law modifying the criminal code to define sexual harassment in public spaces as a crime went into effect. The law defines any verbal or gesticular act of a sexual nature designed to intimidate or humiliate another person as harassment, and it includes audiovisual recordings of an individual's genital area or private parts without consent. Depending on the severity of the crime, sentences can range from 61 days' to five years' imprisonment and fines up to 20 UTM (an indexed amount, updated monthly) (approximately \$1,400 as of November).

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: Although women possess most of the same legal rights as men, the government did not enforce the law effectively, and discrimination in employment, pay, ownership and management of businesses, and education persisted. Certain laws defining the marital relationship enable discrimination. The default and most common marital arrangement is "conjugal society," which provides that a husband has the right to administer joint property, including his wife's property, without consultation or written permission from his spouse, but a wife must demonstrate that her husband has granted his permission before she is permitted to make financial arrangements. Legislation remained pending years after a 2007 agreement with the Inter-American Commission on Human Rights 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 or a joint-estate regime, she may not enter into a commercial partnership agreement without permission from her husband, while 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 32 percent less than that of men, according to the Ministry of Women

and Gender Equality. The ministry is in charge of protecting women's legal rights and is specifically tasked with combatting discrimination against women.

Children

Birth Registration: Citizenship is derived by birth within the country's territory and from one's parents or grandparents. There were no reports that birth registration was denied on a discriminatory basis.

Child Abuse: There are laws against child abuse, but it remained a persistent problem. The law renders persons convicted of child sexual abuse permanently ineligible for any position, job, career, or profession in educational settings requiring direct and habitual contact with children younger than age 18. The law also includes a public registry of these sex offenders.

As part of the 2018 National Agreement on Childhood, the government opened the second Local Office for Children's Affairs in the northern city of Iquique in the Tarapaca Region in March. The first office in the pilot program opened in the Florida municipality of greater Santiago in 2018, and 10 additional offices were tentatively planned across the country. The centers coordinated access to local services and benefits for children and adolescents and the activation and resolution of vulnerability alerts through the Childhood Alert System.

Early and Forced Marriage: The legal minimum age of marriage is 18 (16 with parental consent).

Sexual Exploitation of Children: Commercial sexual exploitation of children and adolescents was a problem, and children were victims of sex trafficking with and without third-party involvement. Children were also used in the production of pornography. The law prohibits all forms of human trafficking, prescribing penalties ranging from five years and one day to 15 years in prison, plus fines, for trafficking offenses. Nevertheless, child sex-trafficking cases were often prosecuted under a different law, Article 367 of the penal code, which provides lesser penalties. Due to sentencing guidelines for first-time offenders that provide automatic parole for any sentence of less than five years' confinement, many convicted traffickers were given weak and inadequate sentences, which hampered efforts to deter and hold traffickers accountable.

Heterosexual sexual relations with minors between the ages of 14 and 18 may be considered statutory rape depending on the circumstances; sex with a child

younger than 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.

Institutionalized Children: Following the 2016 death of 11-year-old Lissette Villa in a group home run by the National Service for Minors (SENAME), a number of investigations uncovered systemic problems of abuse and neglect. In July, Deputy (member of congress) Rene Saffirio accused the Ministry of Justice of concealing an investigative report drafted by the Investigative Police in 2018 that surveyed administrative records of all 240 SENAME residential facilities nationwide in the areas of adoption, protective services, and juvenile justice. The survey found that 45 percent of the facilities did not comply with minimum SENAME standards, 73 percent lacked guidelines and preventive procedures on children's suicides, 77 percent did not have guidelines to deal with behavioral incidents, and 72 percent lacked procedures in case of children's deaths. Of the centers, 58 percent, including all of those administered directly by SENAME, reported incidents of physical, psychological, or sexual abuse by staff members responsible for the children's care. The National Prosecutor's Office claimed it was validating the study's methodology before forwarding it to the Minister of Justice. The National Advocate for Children's Rights announced that it sent a copy of the study to the UN Committee on the Rights of the Child on July 4.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Jewish community numbers approximately 18,000 persons. Jewish community leaders reported concern over the tone of social media postings they perceived as threatening. The commentary leaders found offensive primarily referenced frustration with Israeli government policies and did not specifically mention either Jewish individuals or Chilean Jews.

During widespread social unrest in October and November, the Jewish cemetery in Santiago and Jewish-owned businesses in Concepcion were vandalized with anti-

Semitic graffiti, and vandals threw Molotov cocktails at the main synagogue in Concepcion.

In December 2018 the Jewish Community of Chile successfully sued to block a municipal law in Valdivia that would have associated the city with the “Boycott, Divestment, and Sanctions (BDS)” movement. The court ruled municipalities do not have the legal authority to conduct foreign relations and that all public tenders must be guaranteed “equal and nondiscriminatory treatment” under the law.

Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities, and the government mostly enforced these provisions. Persons with disabilities suffered forms of de facto discrimination. The law provides for universal and equal access to buildings, information, and communications. 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. In recent years, however, the Metropolitan Mobility Network, the main system of public transportation within Santiago, instituted changes to improve compliance with the law, including new ramp systems and elevators at certain metro stations, as well as improved access to some buses. Nevertheless, many metro stations and most buses remained inaccessible to persons with physical disabilities.

The Ministry of Social Development’s National Service for the Disabled (SENADIS) reported that children with disabilities attended mainstream public primary and secondary school but noted difficulties in ensuring equal access to schooling at private institutions. SENADIS also reported that persons with disabilities had fewer opportunities to continue their education beyond secondary school. According to a 2016 study by SENADIS, persons with disabilities on average had less formal education, lower workforce participation and employment rates, and lower average salaries than the general population. Persons considered to have severe disabilities were especially likely to be excluded from the workforce.

National/Racial/Ethnic Minorities

Equal treatment and nondiscrimination are explicitly protected in the constitution, and the labor code specifically prohibits discrimination. In its 2017 annual report, the INDH published survey results regarding racial discrimination, in which 76 percent of those surveyed reported having witnessed discriminatory actions against immigrants, most of whom were from other Latin American countries or from the Caribbean, including Afro-descendants. There were reports of discrimination against racial minorities and immigrants in the public-health and education systems. The government implemented training programs for public officials on assisting immigrants, incorporated interpreters into offices, and provided information in languages other than Spanish, specifically Haitian Creole. Several municipal governments implemented plans for assistance to migrants in public services.

Indigenous People

Although the constitution does not specifically protect indigenous groups, indigenous peoples 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. In its annual report on human rights, the University of Diego Portales reported indigenous peoples encountered serious obstacles to exercising these civil and political rights, including the right to use natural resources in their territories, to political participation, and to nondiscrimination and equal access to justice. Indigenous persons experienced societal discrimination, including in employment; there were reports of incidents in which they were attacked and harassed. In its 2017 annual report, the INDH published racial discrimination survey results, in which between 65 and 83 percent of citizens reported agreeing with a series of discriminatory statements regarding indigenous groups.

There were numerous reports of police abuse against Mapuche individuals and communities, including against children. The INDH brought petitions to protect the constitutional rights of Mapuche individuals, including children and adolescents, in cases of excessive use of force by security forces. Amnesty International's annual report reiterated there were continuing reports of excessive use of force and arbitrary detention during police operations in Mapuche communities.

In November 2018 Carabineros forces shot and killed Camilo Catrillanca, a Mapuche community leader in Temucuicui in the southern Araucania Region, causing widespread protests. Four officers were arrested, and two senior officials resigned, when it was revealed the Carabineros had lied in their initial reports of the incident and destroyed video evidence showing the victim was unarmed and was shot in the back. A 15-year-old boy who witnessed the shooting was arrested and allegedly beaten in custody; his arrest was later declared illegal. The trial of eight persons (seven Carabineros officers and one civilian employee) accused of criminal charges including homicide, attempted homicide, and obstruction of justice in the case was scheduled to begin in November.

Indigenous lands are demarcated, but some indigenous Mapuche and Rapa Nui communities demanded restitution of privately and publicly owned traditional lands.

The law recognizes nine indigenous groups in the country and creates an administrative structure to provide specialized programs and services to promote economic, social, and cultural development of these peoples.

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

The law sets the age of consent at 18 for consensual same-sex sexual activity; heterosexual activity is permitted, under some circumstances, at age 14. Antidiscrimination laws exist and prohibit discrimination based on sexual orientation or gender identity in housing, employment, and access to government services. The government generally enforced these labor laws effectively. In March the Movement for Homosexual Integration and Liberation (MOVILH), a leading gay rights NGO, reported it tracked 698 cases of discrimination due to sexual orientation or gender identity during 2018, the highest number in the history of their annual report and a 44 percent increase over 2017, including an increase of 217 percent in discrimination against transgender individuals. The most common discriminatory acts reported to MOVILH were verbal abuse and discrimination in the public services, such as police operations, public education, and health services.

Violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals continued. In October police arrested Alberto Faundez on suspicion of theft. Upon discovering that he was gay, police allegedly physically assaulted him in the detention center, forced him to strip naked in front of other prisoners, and

subjected him to homophobic insults. MOVILH and the INDH filed legal actions protesting the treatment.

The case continued against police for arbitrary detention and cruel, inhuman, and degrading treatment in a 2018 incident. In June 2018, on the night of Santiago's Pride Parade, MOVILH reported that its founder, LGBTI activist Rolando Jimenez, was subjected to verbal and physical abuse and arbitrarily arrested for defending a same-sex couple being subjected to verbal discrimination, harassment, and physical abuse by Carabineros. Jimenez was charged with attacking a police officer and making death threats, as well as with theft of the officer's watch. MOVILH alleged the accusations were false and that Jimenez was attacked because he had been a constant critic of alleged homophobic actions by Police Precinct Number One. In August, Jimenez publicly reconciled with Carabineros General Director Mario Rozas, who apologized for the incident and promised an internal investigation.

Law enforcement authorities appeared reluctant to use the full recourse of a 2012 antidiscrimination law, including charging assailants of LGBTI victims with a hate crime, which would elevate criminal penalties as permitted under the law.

On August 29, after formal review by the comptroller general, the Official Register published implementing regulations for the Gender Identity Law enacted in 2018. The law grants transgender citizens, starting at age 14, the ability to change gender markers on government-issued identity documents, including national identity cards and university diplomas, to reflect their gender identity. The law was scheduled to go into effect on December 27. MOVILH estimated that a large portion of the increase in discrimination cases registered in 2018 came in response to the passage of this law.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the rights of workers, with some limitations, to form and join independent unions of their choice, bargain collectively, and conduct strikes. The law also prohibits antiunion practices and requires either back pay or reinstatement for workers fired for union activity.

Workers in the private sector and in state enterprises are provided the freedom to unionize without prior approval. Police, military personnel, and civil servants

working for the judiciary are prohibited from joining unions. Union leaders are restricted from being candidates or members of congress. The Directorate of Labor (DT), an independent government authority under the Ministry of Labor, has broad powers to monitor unions' financial accounts and financial transactions. For example, unions must update their financial records daily, and ministry officials may inspect the records at any time.

The law prohibits public employees from striking, although they frequently did. While employees in the private sector and workers in formal and regulated collective bargaining units have the right to strike, the law places some restrictions on this right. For example, an absolute majority of workers, rather than a majority of those voting, must approve strikes. The law also prohibits employees of 101 private-sector companies, largely providers of services such as water and electricity, from striking, and it stipulates compulsory arbitration to resolve disputes in these companies. In addition workers employed by companies or corporations whose stoppage would cause serious damage to the health, economy, or security of the country do not have the right to strike.

Employers may not dismiss or replace employees involved in a strike. Unions must provide emergency personnel to fulfill the company's "minimum services." Those include the protection of tangible assets and of the company's facilities, accident prevention, service of the population's basic needs, ensuring the supply of essential public services, and ensuring the prevention of environmental and sanitary damages.

The law extends unions' rights to information, requiring large companies to disclose annual reports including balance sheets, statements of earnings, and audited financial statements. Large companies must provide any public information required by the Superintendence of Securities and Insurance within 30 days following the date when the information becomes available. Smaller companies must provide information necessary for the purposes of preparing the collective bargaining process.

While the law prior to the 2017 labor reform provided for collective bargaining rights only at the company level, the reform extended such rights to intercompany unions, provided they represent workers at employers having 50 or more employees and falling within the same economic rubric or activity. An absolute majority of all covered workers must indicate through secret ballot vote that they agree to be represented by an intercompany union in collective bargaining. Intercompany unions for workers at micro or small businesses (i.e., with fewer

than 50 workers) are permitted to bargain collectively only when the individual employers all agree to negotiate under such terms. The law does not provide for collective bargaining rights for workers in public institutions or in a private institution that receives more than 50 percent of its funding from the state in either of the preceding two years, or whose budget is dependent upon the Defense Ministry. It also does not provide for collective bargaining in companies whose employees are prohibited from striking, such as in health care, law enforcement, and public utilities. Whereas the previous labor code excluded collective bargaining rights for temporary workers or those employed solely for specific tasks, such as in agriculture, construction, ports, or the arts and entertainment sector, the revised labor standards eliminate these exclusions, extending bargaining rights to apprentices and short-term employees. Executives, such as managers and assistant managers, are prohibited from collective bargaining.

The government generally enforced labor laws effectively. Nevertheless, the DT commented on the need for more inspectors. Penalties were not sufficient to deter violations. Companies are generally subject to sanctions for violations to the labor code, according to the severity of each case. Companies may receive “special sanctions” for infractions, which include antiunion practices. NGOs reported cases in labor tribunals took an average of three months to resolve. Cases involving fundamental rights of the worker often took closer to six months. NGOs continued to report it was difficult for courts to sanction companies and order remedies in favor of workers for various reasons, including if a company’s assets were in a different name or the juridical entity could not be located.

Freedom of association was generally respected. Employers sometimes did not respect the right to collective bargaining. According to Freedom House, the IndustriALL Global Union, and the International Trade Union Confederation, antiunion practices, including a threat of violence, continued to occur. In addition NGOs and unions indicated that penalties for violations of freedom of association and collective bargaining laws were insufficient to deter violations, especially in large companies. NGOs and unions reported that companies sought to inhibit the formation of unions and avoid triggering collective bargaining rights, especially among seasonal agricultural workers and in key export sectors such as mining, forestry, and fishing, by using subcontracts and temporary contracts as well as obtaining several fiscal registration or tax identification numbers when increasing the size of the workforce. In addition subcontracted employees earned lower wages than regular employees performing the same task, and many contractors failed to provide formal employment benefits, such as social security, health care, and pensions.

Labor courts can require workers to resume work upon a determination that a strike, by its nature, timing, or duration, causes serious risk to the national economy or to health, national security, and the supply of goods or services to the population. Generally, a back-to-work order should apply only when a prolonged strike in a vital sector of the economy might endanger public safety or health, and it should apply only to a specific category of workers.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor. The government generally enforced the law effectively. Penalties were sufficiently stringent to deter violations. NGOs reported many government officials responsible for identifying and assisting victims had limited resources and expertise to identify victims of labor trafficking. In addition, judges often suspended or commuted sentences. The government worked to prevent and combat forced labor through its interagency antitrafficking taskforce, which included international organizations and local NGOs. The task force published and began implementation of a new national action plan (2019-22).

Labor trafficking continued to occur. Some foreign citizens were subjected to forced labor in the mining, agriculture, domestic service, and hospitality sectors. Some children were forcibly employed in the drug trade (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The country conforms to international standards, which dictate the minimum age for employment or work should be no less than 15 years. The law sets the minimum age for employment at 18, although it provides that children between 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. The law prohibits all of the worst forms of child labor.

Ministry of Labor inspectors effectively enforced regulations in the formal economy but did not inspect or enforce such regulations in the informal economy. Infractions included contracting a minor younger than age 18 without the authorization of the minor's legal representative, failure to register a minor's

contract with the ministry, and contracting a minor younger than 15 for activities not permitted by law. Penalties and inspections were not sufficient to deter 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 operated programs 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 (ILO), and with 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 ILO 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 a multisector protocol for the identification, registration, and care of children and adolescents who are victims of commercial sexual exploitation. The National Tourism Service's hotel certification procedures, developed in collaboration with SENAME, included strict norms for preventing the commercial sexual exploitation of children. This included special training for National Tourism Service staff charged with assessing and certifying hotels.

Child labor continued to be a problem in the informal economy and agriculture, primarily in rural areas. Higher numbers of violations occurred in the construction, industrial manufacturing, hotels and restaurants, and agriculture sectors.

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 worked in the production of ceramics and books and in the repair of shoes and garments. In rural areas children were involved in caring for farm animals as well as in harvesting, collecting, and selling crops, such as wheat. The use of children in illicit activities, which included the production and trafficking of narcotics, continued to be a problem. Commercial sexual exploitation of children also continued to be a problem (see section 6, Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

d. Discrimination with Respect to Employment and Occupation

The law and regulations prohibit employment discrimination based on race, sex, age, civil status, union affiliation, religion, political opinion, nationality, national extraction, social origin, disability, language, sexual orientation, or gender identity, HIV-positive status or other communicable diseases, refugee or stateless status, ethnicity or social status. The government and employers do not discriminate on the basis of refugee, stateless status, or ethnicity, but workers must have a work permit or be citizens to hold contracted jobs. The law also provides civil legal remedies to victims of employment 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. A 2017 law addresses matters related to persons with disabilities. For all public agencies and for private employers with 100 or more employees, the law requires 1 percent of jobs be reserved for persons with disabilities.

The government effectively enforced applicable laws and regulations prohibiting employment discrimination. Authorities generally enforced the law in cases of sexual harassment, and there was no evidence of police or judicial reluctance to act. Companies may receive “special sanctions” for infractions such as denying maternity leave. Such penalties were generally sufficient to deter violations. Nevertheless, discrimination in employment and occupation continued to occur. Persons with disabilities often faced discrimination in hiring; they constituted approximately 7.6 percent of the working-age population but only 0.5 percent of the workforce. Indigenous persons continued to experience societal discrimination in employment. Statistics regarding rates of discrimination faced by different groups were not available.

e. Acceptable Conditions of Work

As of November 2018 the national minimum wage exceeded the poverty level. 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 the law provides exemptions for hours of work restrictions for some categories of workers, such as managers; administrators; employees of fishing boats; restaurant, club, and hotel workers;

drivers; airplane crews; telecommuters or employees who work outside of the office; and professional athletes. 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. 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. By law workers can remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively protected employees in this situation.

The DT 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. The law establishes fines for noncompliance with labor regulations, including for employers who compel workers to work in excess of 10 hours a day or do not provide adequate rest days. Companies may receive “special sanctions” for infractions such as causing irreversible injuries to an employee. An estimated 28 percent of the nonagricultural labor force worked in the informal sector, according ILO data from 2017. Workers in the informal economy were not effectively protected in regard to wages or safety.

The DT did not employ a sufficient number of labor inspectors to enforce labor laws effectively 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. Penalties were not sufficient to deter violations, especially with larger employers. The DT 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 retail sectors. The sectors with the most infractions in safety and health standards were construction, retail, and industrial manufacturing. The service sector experienced

the most accidents during the year. Immigrant workers in the agricultural sector were the group most likely to be subject to exploitative working conditions. According to ILO data, in 2018 there were 3.1 fatal and 3,142 nonfatal occupational injuries per 100,000 workers.