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## 2009 Human Rights Report: Bolivia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2009 Country Reports on Human Rights Practices](#)

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Bolivia is a constitutional, multiparty democracy with a population of approximately 9.7 million. On January 25, Bolivians approved a new constitution. On December 6, in a process deemed free and fair by international observers, citizens reelected Evo Morales Ayma, leader of the Movement Toward Socialism (MAS) party, as president. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were significant problems in a number of areas. These included alleged abuses by security forces; harsh prison conditions; allegations of arbitrary arrest and detention; an ineffective, overburdened, and corrupt judiciary; a "partly free" media; corruption and a lack of transparency in government; discrimination based on gender, ethnicity, and sexual orientation; trafficking in persons; child labor; forced or coerced labor; and harsh working conditions in the mining sector.

### RESPECT FOR HUMAN RIGHTS

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 politically motivated killings. Unlike in the previous year, there were no reports that deaths occurred during politically related conflicts; however, security forces killed three alleged international terrorists.

On April 16, an elite police unit raided a downtown Santa Cruz hotel and shot and killed three alleged terrorists--Bolivian-Hungarian Eduardo Rozsa-Flores, Hungarian Arpad Magyarosi, and Irishman Michael Dwyer--and arrested two others--Mario Tadic, a Croatian, and Elod Toaso, a Hungarian. The government claimed Rozsa-Flores led a group recruited by the political opposition that intended to assassinate President Morales and assist in the secession of the department of Santa Cruz. Opposition leaders denied these charges and claimed the government itself recruited or quickly infiltrated the group and then executed the three men so they could not discuss government involvement. An official congressional inquiry found that police acted lawfully and disrupted a terrorist cell. A report by opposition commission members questioned the majority findings and the circumstances of the terrorist deaths.

Mob violence, sometimes incorrectly characterized by perpetrators as "indigenous justice" or "community justice," often led to violent deaths. Although the concept of "indigenous justice" is discussed in the country's new constitution, the government strongly rejected the interpretation that the constitution permits mob violence, noting the constitution specifically bans capital punishment. Many observers attributed such "community justice" to the absence of effective police and judicial presence in many urban and rural areas.

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While there were no official statistics for such crimes, the government's Special Force Against Crime (FELCC) unofficially registered 53 such attempts. On December 16, local daily newspaper *La Razon* reported 14 episodes of mob violence that resulted in death during the year.

Killings committed in the name of community justice occurred during the year.

On February 1, farmers in Ancoraimas, Omasuyos, killed a high school student from La Paz, accusing him of stealing a small bus.

On April 10, a 25-year-old bicycle thief in southern Cochabamba died after a crowd tied him to an electric fence post and beat him.

On October 18, La Paz press reported that a mob in neighboring El Alto beat and then burned to death 38-year-old Pablo Quispe Laura for trying to steal a canister of liquid gas.

There were no developments in the investigation of the September 2008 deaths of 13 persons in the cities of Porvenir and Cobija in Pando Department; 11 individuals died in a confrontation between marching campesinos and Porvenir townspeople, and two others were killed the next day after security forces landed at Cobija airport. On the anniversary of the conflict, opposition civic groups released video footage of townspeople asking the marchers not to enter Porvenir, hostages being taken by the marchers, federal police forces failing to act, and the two groups shooting at each other. On October 12, within the 18-month period allowed for investigation, prosecutors brought formal charges against former prefect (governor) Leopoldo Fernandez and other defendants for their alleged roles in the conflict.

There were no developments in the prosecutor's investigation into the August 2008 deaths of two miners during a confrontation with police in Cahuasi, near the border of Oruro and Cochabamba Departments.

Congress did not act on a December 2008 request by the Supreme Court to authorize an impeachment trial for members of the Ministry of Government, including Government Minister Alfredo Rada, implicated in the 2007 killings in Sucre of Gonzalo Duran Carazani, Juan Carlos Serrudo, and Jose Luis Cardozo allegedly by security forces.

There were no developments in the military or civil investigations into the 2007 death of Osmar Flores Torres in Arani, Cochabamba Department, in which police denied using lethal weapons in responding to a demonstration. Although the case's 18-month investigatory phase ended, the civilian prosecutor did not close the case, bring it to trial, or identify a person responsible for further prosecution.

There were no new developments in the 2007 shooting of Herman Ruiz.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices; however, there were reports that security forces beat terrorist suspects.

Following the April 16 arrest of Mario Tadic and Elod Toaso in connection with alleged terrorist activities (see section 1.a.), a Web site showed pictures of Toaso with large bruises on his face, legs, arms, and buttocks. Other sources showed similar pictures of Tadic. After meeting Toaso in jail, the Hungarian ambassador told local media, "Unfortunately, they mistreated this Hungarian citizen during the arrest. You can see this on his face and other parts of his body." The human rights ombudsman also confirmed both were beaten.

On May 16, Jhenieffer Wissemberg told local media that government-affiliated thugs beat her severely in August 2008, causing her to lose sight in her right eye. She said the beating was a reprisal for accusations by her husband, former national customs department president Cesar Lopez, that Presidency Minister Juan Ramon Quintana coordinated delivery of 33 truckloads of contraband to Brazil. Wissemberg said that Quintana ordered the attack and two subsequent attacks when her husband did not respond to a series of threatening telephone calls directing him to recant his accusations. On May 7, the MAS-controlled lower house of Congress dismissed Lopez's charges, exonerated Quintana, and charged Lopez with corruption.

There were several incidents of nonlethal mob violence during the year.

On March 3, former Congress member and MAS party dissident Marlene Paredes was attacked by a large group and expelled from her home in the Yungas Valley. Paredes said the group comprised MAS party followers who shouted as they beat her that the attack was "community justice" for being a traitor to the MAS. In an interview, Paredes showed pictures of large bruises covering her body. The government denied any connection with the attack and closed the case. Paredes presented her case to the Inter-American Commission on Human Rights, which had not responded formally by year's end.

On March 7, approximately 300 persons invaded the home of former vice president and opposition political leader Victor Hugo Cardenas, where they attacked and evicted his wife and two children, ransacked their belongings, and refused to allow police to enter the property for weeks. According to news reports, many in the mob specifically called the action "community justice" and said the constitution empowered them to take such actions. Cardenas said he held the Morales administration responsible for the attack. He sued Government Minister Alfredo Rada for the government's refusal to prosecute the attackers and for the lack of police action to return the home. Government spokespersons disavowed any responsibility. After initially declaring that Cardenas brought the attack upon himself for past "traitorous" acts, Vice President Alvaro Garcia Linera called for the return of Cardenas' home, saying the constitution "contains absolute respect for private property." The property had not been returned to Cardenas, and social group representatives maintained a vigil near the house at year's end, denying entrance to Cardenas and local police.

On April 7, police in Cochabamba broke up three separate lynching attempts to kill up to 10 persons for robberies. In one incident a crowd beat a group of six children ranging in age from 14 to 17, only to find hours later the children were not the thieves.

On May 11, the pro-MAS Federation of Indigenous People of Eastern Bolivia (CIDOB) announced they had applied "community justice" to Beni Department Director of Indigenous Development Marcial Fabricano by publicly whipping him 50 times. CIDOB leader Adolfo Chavez said Fabricano was punished for not appointing MAS leaders to prominent positions in Beni. The government disavowed the attack and started a formal investigation, but no results were announced by year's end.

Prison and Detention Center Conditions

Prison conditions were harsh. Prisons were overcrowded and in poor condition. Government authorities effectively controlled only the outer security perimeter of each prison. Prisoners usually maintained control, and gangs directed criminal activity from their cells.

Violence among prisoners, and in some cases the involvement of prison officials in violence against prisoners, were problems.

Corruption was a problem among low-ranking and poorly paid guards and prison wardens. The number of persons held in detention centers remained a problem. A prisoner's wealth often determined cell size, visiting privileges, day-pass eligibility, and place or length of confinement. Inmates reportedly paid fees to prior cell occupants or to prisoners who controlled cellblocks.

Although the law permits children up to six years old to live with an incarcerated parent, children as old as 12 lived with their parents in prisons. (The law also permits spouses to live in prison.) Approximately 877 children lived with a parent in prison, as an alternative to being left homeless. During school vacations the number of children in prison with parents could double. The national ombudsman, in coordination with the Ministry of Government, issued a statement in 2007 advocating a ban on the practice of children living in prisons.

The standard prison diet was insufficient, and prisoners who could afford to do so supplemented rations by buying food.

The law provides that prisoners have access to medical care, but care was inadequate, and it was difficult for prisoners to get permission for outside medical treatment. Nongovernmental organizations (NGOs) and prisoners reported cases of tuberculosis and HIV/AIDS in the jails. However, affluent prisoners could obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. Inmates who could pay had access to drugs and alcohol, and sometimes they used children to traffic drugs inside the prisons.

There were 7,433 inmates (6,541 men and 892 women) in facilities designed to hold 4,700 prisoners. There were separate prisons for women, except for Morros Blancos Prison in Tarija, where men and women shared facilities. Conditions for female inmates were similar to those for men; however, overcrowding at the San Sebastian women's prison in Cochabamba was worse than in most prisons for men.

According to Ministry of Government officials, 668 convicted juveniles (16 to 21 years old) were not segregated from adult prisoners in jails. According to interviews, adult inmates sometimes abused the juvenile prisoners. Rehabilitation programs for juveniles or other prisoners were scarce to nonexistent. Pretrial detainees were held with convicted prisoners.

The government generally permitted prison visits by independent human rights observers, judges, and media representatives, and such visits took place during the year.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, there were cases of security forces seizing and holding individuals under legally questionable circumstances.

On November 18, police arrested Betty Aponte Justiniano for showing a lack of respect to Presidency Minister Juan Ramon Quintana and for subsequently failing to respond to a request to appear in front of government investigators. Police detained Aponte for 21 hours with her three daughters before a judge released her with the requirement that she report weekly to the government investigator's office. Aponte allegedly insulted Quintana on September 11 by coarsely asking him how long he would spend in jail for his alleged role in a contraband scandal (see section 1.c.). Opposition

Senators Paulo Bravo and Roger Pinto said the arrest was a political reprisal, that Aponte was held at Quintana's behest, and that she never received a required written request from investigators to report to court.

Jorge Melgar Quete remained in a La Paz jail awaiting trial after his October 2008 arrest for publicly calling for the "liquidation" of President Morales. The opposition maintained Melgar was jailed for disseminating video of Presidency Minister Quintana calling for the "political burial" of then-Pando prefect Fernandez.

On June 18, Reinaldo Bayard was released from prison on bail as investigations continued over his role in the September 2008 explosion of a government-owned gas pipeline in Tarija Department.

#### Role of the Police and Security Apparatus

The national police have primary responsibility for internal security, but military forces may be called upon for help in critical situations. The national police disciplined officers by issuing 1,179 administrative sanctions through December 1. Prosecutors were sometimes reluctant to prosecute security officials for alleged offenses committed while on duty, in part because they relied on the Judicial Technical Police to investigate its own officers. NGOs charged that several investigations into potential human rights violations by the military stalled or proceeded slowly due to an administrative policy prohibiting the military from commenting on its activities, a policy that can be overruled by civilian judges. Police corruption was a significant problem, partially due to low salaries and lack of training, although no reliable statistics existed to quantify the depth of the problem.

#### Arrest Procedures and Treatment While in Detention

Arrests generally were carried out openly, but there were credible reports of arbitrary arrests and detentions.

The law requires an arrest warrant, and the police must inform the prosecutor of an arrest within eight hours. The law requires that a detainee see a judge within 24 hours (except under a declared state of siege, in which a detainee may be held for 48 hours), at which time the judge must determine the appropriateness of continued pretrial detention or release on bail and must order the detainee's release if the prosecutor fails to show sufficient grounds for arrest. Credible reports indicated that in some cases detainees were held for more than 24 hours without court approval.

More than 73 percent of detainees awaited sentencing, but the courts provided release on bail for some detainees. Judges have the authority to order preventive detention for suspects deemed a flight risk. If a suspect is not detained, a judge may order significant restrictions on the suspect's movements.

Detainees generally had prompt access to their families and were allowed access to lawyers, but approximately 70 percent could not afford legal counsel, and public defenders were scarce and overburdened.

During the year the government provided 112 police officers in-depth human rights training, and provided 381 cadets and other police officials instruction in legal procedure that featured human rights instruction as well. Led by MAS Deputy Elizabeth Salguero, the Congressional Human Rights Commission worked with the Bolivian National Police to organize an international workshop on the rights of women police officers and provided training for 1,975 female officers.

Denial of justice through prolonged detention remained a problem. Although the law establishes that a case's investigatory phase cannot exceed a maximum of 18 months and that the trial phase cannot exceed three years, some suspects were held in preventive detention longer than the legal limits. If the investigatory process is not completed in 18 months, the detainee may request release by a judge; however, judicial corruption, a shortage of public defenders, inadequate case-

tracking mechanisms, and complex criminal justice procedures kept some persons jailed for more than 18 months before trial.

Children from 11 to 16 years of age may be detained indefinitely in children's centers for known or suspected offenses, or for their protection, on the orders of a social worker. There is no judicial review of such orders.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but the judiciary was widely considered corrupt, overburdened, and weakened by vacancies at its highest levels.

There are three levels of courts within the criminal court system: trial courts, superior courts, and the Supreme Court. Superior court review is restricted to a review of the application of the law. The Supreme Court may hear appeals in general, but review is restricted to cases involving exceptional circumstances. Three other bodies forming part of the judicial branch are the Constitutional Tribunal, National Electoral Court, and Judicial Council.

The Supreme Court functioned throughout the year, but legal investigations undertaken by the lower house of Congress led to impeachment hearings against several justices. At year's end, Supreme Court President Eddy Fernandez and six other justices faced suspension and possible impeachment. Fernandez labeled the investigations a direct, partisan attack by the government on the Supreme Court. Government representatives countered that several justices were politically aligned with the opposition and were abusing their positions by slowing or halting justice in key cases.

The Supreme Court also faced a backlog of more than 5,000 pending requests, some dating back to 2003, which justices said they had not addressed due to vacancies on the Court. The Supreme Court functioned for most of the year with only seven of 12 positions filled.

The Constitutional Tribunal is an independent institution and has original and appellate jurisdiction on constitutional matters. The Tribunal is the country's highest authority on constitutional matters and is separate from the Supreme Court, which is the highest authority on all other legal matters.

The Constitutional Tribunal, which normally functions with five regular members and five alternates, did not operate for most of the year, as its final magistrate, Silvia Salame, resigned on May 25. Tribunal magistrates, including Salame, charged that government-affiliated social groups harassed tribunal members to force them to resign to remove judicial oversight of constitutionally questionable government actions. A deadlock between the MAS-controlled lower house and the opposition-controlled senate prevented agreement on replacement magistrates, leaving the tribunal empty. According to the Inter-American Commission on Human Rights (IACHR), at the end of the year the tribunal had a backlog of more than 4,400 cases, affecting an estimated 29,000 persons.

The National Electoral Court is the final authority on all matters relating to elections. Although it operated with only three of five members, it met regularly, was able to form a quorum, and signaled its independence from the executive branch through a variety of rulings and initiatives.

The Judicial Council, a legal oversight body created to fight corruption and malpractice, was unable to form a quorum and did not make judgments during the year. The council faced a backlog of more than 100 disciplinary cases.

In addition to the foregoing, the law also recognizes the conflict-resolution (community justice) traditions of indigenous communities, which are, in fact, practiced in many communities, provided they respect the right to life and do not conflict with the rights and provisions established under the constitution.

There is also a military justice system: it generally was susceptible to senior-level influence and tended to avoid rulings that would embarrass the military. When a military member is accused of a crime related to his military service, the commander of the affected unit assigns an officer to conduct an inquiry and prepare a report. The results are forwarded to a judicial advisor, usually at the division level, who then recommends a finding of innocence or guilt. For major infractions the case is forwarded to a military court, except that military personnel are supposed to be tried in civilian courts for human rights violations.

#### Trial Procedures

Defendants have constitutional rights to a presumption of innocence, to a speedy and public trial by jury, to remain silent, to have an attorney, to confront witnesses, to present evidence on their own behalf, to due process, to an appeal, and to confront legal charges with government prosecutors before a formal court process is initiated.

In practice the rights to an attorney and to a speedy trial were not protected systematically, although the Criminal Procedures Code facilitated more efficient investigations, transparent oral trials, and credible verdicts. According to the Public Defender's Office, its staffing for the country's nine departments included only 55 public defenders and 11 legal assistants. According to a study by the IACHR released December 16, only 55 percent of municipalities had judges, 23 percent government investigators, and 3 percent public defenders.

The law provides for a system of transparent oral trials in criminal cases, requires that no pretrial detention exceed 18 months without charges, provides for a maximum period of detention of 24 months in cases in which a sentence is being appealed, and mandates a three-year maximum duration for a trial. The law provides that the prosecutor is in charge of the investigative stage of a case and must give suspects an opportunity to confront charges before a trial formally begins.

The prosecutor instructs police regarding witness statements and evidence necessary to prosecute. The prosecutor pursues misdemeanor cases (with possible sentences of less than four years) before a judge of instruction and felony cases (with possible sentences of more than four years) before sentencing courts, both of which feature a five-member panel that includes three citizens and two judges.

#### Political Prisoners and Detainees

The opposition alleged that former Pando Prefect Fernandez and three others were held as political prisoners, while the government maintained they were being held legally under judicial order (see section 1.d.) The government allowed Fernandez to receive visitors, including international monitors, but did not allow press to enter the prison to interview Fernandez as part of his national election campaign.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters. The law provides for criminal remedies for human rights violations, and at the conclusion of a criminal trial, the complainant can initiate a civil trial to seek damages.

Administratively, the ombudsman for human rights can issue resolutions on specific human rights cases, which the government may enforce.

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

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

Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press. Although the government generally respected these rights, it maintained an antagonistic relationship with the press. Opposition members charged President Morales and government officials with making disparaging statements regarding the press, politicizing state-produced media content, and taking actions designed to restrict independent media or encourage self-censorship.

The number of media outlets, including printed press, television, and radio, was extensive, and airing of various viewpoints, many expressing opposition to the government, continued. Radio and television stations generally operated freely. However, in rural areas state radio was often the only available media source.

The law provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from one month to two years. Insults directed against the president, vice president, or a minister increase the sentence by half. Journalists accused of violating the constitution or citizens' rights are referred to the 40-person Press Tribunal, an independent body authorized to evaluate journalists' practices and apply sanctions.

Progovernment and antigovernment groups criticized and attacked each other. The Inter-American Press Association (IAPA) reported on November 9 that there had been 112 attacks on journalists since May 1.

In its 2009 Freedom of the Press report, NGO Freedom House characterized the country's press as "partly free." Freedom House reported that "significant slides continued" in the country "as attacks and official rhetoric against the media escalated."

On January 22, President Morales introduced the state-run newspaper *Cambio*, which he said would "halt the aggressive actions and lies of the private media." The government maintained that the majority of press outlets were owned by persons or groups hostile to the government, who used their media outlets to call for regime change.

President Morales at times allowed only international press and domestic state-run media to ask questions during press conferences. On May 27, President Morales asked journalists to "educate themselves and behave more like the foreign press" instead of "looking like a bunch of screeching chickens" during press conferences.

The IAPA was generally critical of the government for "undermining" the press, for sanctioning verbal and physical attacks against journalists that it feared could lead to self-censorship, and for contributing to a climate of polarization. However, the IAPA also stated on May 27 that "freedom of press definitely exists."

On March 24, the government sued leading daily newspaper *La Prensa* for slander for publishing a story linking President Morales and Presidency Minister Juan Ramon Quintana to a plan to smuggle 33 truckloads of contraband into Brazil. *La Prensa* editors rejected the claim and said they considered the trial an attempt to silence the press. The case had not been resolved at year's end.

On September 3, police physically attacked and fired shots at a news reporter and a camera operator when they tried to film the arrest and transfer of farm owner Nelson Vaca, whom the government accused of misusing and invading government property. A government representative condemned the police action and announced that the officers would be investigated and sanctioned as appropriate. On September 8, the government dissolved the police unit involved in the attack.

Although the case remained open, there were no results from an investigation into the December 2008 bombing of newspaper *El Potosi*.

According to local NGO UNIR, from October 2007 through June 2009, 280 cases of violence against journalists occurred, with only two resulting in judicial sanctions.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that in 2008 there were 10 Internet users per 100 inhabitants.

#### Academic Freedom and Cultural Events

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

#### b. Freedom of Peaceful Assembly and Association

The law provides for freedom of peaceful assembly, and the authorities generally respected this right in practice. While the law requires a permit for most demonstrations, security forces rarely enforced the law, and most protesters demonstrated without obtaining permits, frequently blockading major thoroughfares and highways.

While most demonstrations were peaceful, occasionally demonstrators carried weapons, including clubs, machetes, firearms, and dynamite. Security forces frequently (police and on occasion the military) were called upon to break up protest groups carrying weapons or threatening government and private facilities.

#### Freedom of Association

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

#### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. Under the constitution promulgated during the year, the state is independent from religion, and Roman Catholicism is no longer the official religion.

Tension continued between the government and the Catholic Church's leadership. President Morales occasionally and vigorously objected to what he characterized as the Catholic Church leadership's overtly political role in state affairs, referring to the Church as his "enemy"; however, his comments did not lead to restrictions on religious freedom in practice.

On August 20, the government signed a five-year framework agreement with the Catholic Church, which affirms freedom of religion and outlines the Church's continued role in providing education, health, and other social services. The Church hailed the signing of the agreement as a sign of improved relations.

#### Societal Abuses and Discrimination

There were no reports of societal abuse or discrimination, including anti-Semitic acts. There was a small Jewish community of approximately 650 persons.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf/](http://www.state.gov/g/drl/rls/irf/).

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. However, throughout the year both progovernment and opposition protesters prevented movement within the country by blockading major highways, as did trade and industry groups. Several hundred thousand citizens lacked basic identity documents, which prevented them from obtaining international travel documents and accessing other government services. However, some experts estimated the number of citizens lacking documents had decreased due to government efforts. The government cooperated with the Pastoral de Movilidad Humana, which is the local representative of the Office of the UN High Commissioner for Refugees (UNHCR), and other humanitarian organizations in assisting refugees and asylum seekers. In law/practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The law prohibits the forced exile of citizens, and the government did not employ the practice.

#### Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government's refugee department, established in January 2008 to record and process all cases, continued to collaborate with the UNHCR and improved its performance in processing cases.

The UNHCR reported that the recognized refugee population in the country was more than 673 persons and steadily increasing. The government completed processing and agreed to provide refugee protection in 84 pending cases, with seven older cases still under review, an improvement over the prior year. There were 39 new applications during the year.

#### 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. Many citizens of voting age, particularly in rural areas, lacked the identity documents necessary to vote, although government efforts reduced this number significantly. A broad spectrum of political parties and citizens' groups functioned openly. Elections for national offices and municipal governments are scheduled every five years.

The National Electoral Court undertook a significant effort to create a biometric electoral register in advance of December elections. The new electoral register increased the number of eligible voters by almost two million persons, to more than five million, and also increased confidence in the integrity of the register.

#### Elections and Political Participation

Monitoring groups from the Organization of American States, EU, and the Carter Center all proclaimed the December 6 national presidential and legislative elections peaceful, free, and fair. Implementation of a new biometric electoral register greatly reduced accusations of fraud. There were no reports of significant violence.

The European Union monitoring mission criticized the government for inappropriately using state-owned media to provide

significantly more coverage of the government's campaign than that of all opposition groups combined. They also reported that the absence of a functioning Constitutional Tribunal limited candidates' legal protections: "The lack of the Constitutional Tribunal reduced the instruments to protect the fundamental rights of candidates who are under investigation for crimes before judicial decisions and citizens in general from resolutions made by the electoral administration."

Every second candidate on municipal election ballots must be a woman, a requirement that had increased female representation to approximately 30 percent of municipal council positions. Before the December 6 elections, there were 23 women among Congress's 157 deputies and senators and three female ministers in the 18-member cabinet. The number of indigenous members of Congress was estimated at 17 percent. After the elections the percentage rose sharply, with 162 women among Congress's 332 total members, and 50 among the 166 titular representatives.

The constitution and electoral law set aside seven special indigenous districts to increase indigenous political participation in the Plurinational Assembly (Congress). President Morales considered himself indigenous. Two of the nine departmental prefects, including one woman, were indigenous.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials in the executive, legislative, and judicial branches of government often engaged in corrupt practices with impunity. Laws to combat corruption and promote transparency include the Financial Administration and Control Law, the State Employees Statute Act, and the Sworn Declaration of Property and Income Law. A cabinet-level presidential appointee is empowered to investigate corruption at any level in any branch of government. The Judicial Council, a legal oversight body, did not function during the year (see section 1.e.).

According to the World Bank's 2009 worldwide governance indicators and Transparency International's 2009 Corruption Index, government corruption and lack of transparency were serious problems. Transparency International indicated that corruption worsened during the year.

An investigation into the January 27 killing of an oil executive and robbery of briefcases containing \$450,000 led to a corruption scandal involving the head of the state petroleum company, Santos Ramirez, a cofounder of the MAS party and close adviser to the president. After evidence emerged that the money was an illegal payment, Morales fired Ramirez, who was subsequently arrested. On November 25, prosecutors formally presented six corruption-related charges against Ramirez, with a potential prison sentence of one to six years.

On April 18, the government approved a purchase for 15.27 million bolivianos (\$2.16 million) of land in Santa Cruz Department as part of a proposed mining operation. On September 29, government investigators accused the government's executive in charge of the project, Guillermo Dalence, of illegally profiting from the sale. The minister of government transparency and anticorruption asserted that the land was valued at 325,000 bolivianos (\$46,000). Dalence responded that President Morales, Vice President Garcia Linera, and other top government officials knew the details of the purchasing agreement, including the sales price. The finance minister subsequently blamed the national mining union (COMIBOL) of compliance mismanagement and of hiding the correct valuation of the lands from top government officials. Investigations continued at year's end.

After investigating the December 2008 case in which Presidency Minister Juan Ramon Quintana was accused of collaborating to smuggle 33 truckloads of contraband into Brazil, on May 7 the lower house of Congress dismissed the charges and exonerated Quintana.

A patchwork of laws requires public officials to report potential personal and financial conflicts of interest. Cases involving allegations of corruption against public officials require congressional approval before prosecutors can initiate legal proceedings.

There were no laws providing access to government information.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, NGOs and the human rights ombudsman complained that government security forces and ministries occasionally refused to cooperate with their investigations.

The human rights ombudsman is a position with a six-year term established in the constitution. Congress chooses the ombudsman via a required two-thirds majority vote. The ombudsman is charged with providing oversight of the defense and promotion of human rights, specifically to defend citizens against government abuses. The ombudsman operated without party influence and with adequate resources from the government and foreign NGOs. The ombudsman issues annual reports, and the government usually accepted his recommendations. The lower house of Congress includes a permanent commission on human rights, which proposes laws and policies to promote human rights. Congressional deputies sit on the commission for one-year terms.

In the aftermath of the April 16 killing of three alleged international terrorists in Santa Cruz (see section 1.a.), President Morales initially rejected calls by the governments of Hungary, Ireland, and Croatia for an international investigation but subsequently authorized the police to cooperate with investigators from the three countries. An Irish government investigation concluded the postmortem on one of the alleged terrorists, Michael Dwyer, was incomplete.

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

The new constitution explicitly prohibits discrimination based on race, gender, language, sexual orientation, or social status. According to the human rights ombudsman, there was significant discrimination against (in descending order) persons with HIV/AIDS, indigenous persons, gay persons, and women.

##### Women

Rape was a serious and underreported problem. The law defines two types of criminal cases. In private criminal matters, the victim brings the case against the defendant; in public criminal matters, a state prosecutor files criminal charges. The code of criminal procedures makes rape a public crime. The law criminalizes statutory rape, with prison terms of 15 to 20 years for the rape of a child under the age of 14. In cases involving consensual sex with an adolescent 14 to 18 years of age, the penalty is two to six years' imprisonment. Forcible rape of an adult is punishable by sentences ranging from four to 10 years' imprisonment. Sexual crimes against minors automatically are considered public crimes. Spousal rape is not a crime.

Violence against women was also a pervasive and underreported problem. According to the NGO Center for the Information and Development of Women (CIDEM), 70 percent of women suffered some form of abuse. CIDEM noted that the statistics "did not reflect the full magnitude of the problem of violence against women" and that "a great number of women" did not report the aggression they faced on a daily basis.

Family laws prohibiting mental, physical, and sexual violence provide for fines or up to four days in jail, unless the case becomes a public crime subject to the penal code; however, these laws were enforced irregularly. The government took few meaningful or concrete steps to combat domestic violence.

Through November, the police Family Protection Brigade handled 19,182 cases nationally, including 5,037 cases of repeat offenders. However, the police brigade lacked financial support, structural support, and personnel to follow up and pursue all reported cases. Most cases of domestic violence went unreported.

Prostitution is legal for individuals age 18 and older, and there were reports of trafficking in women for the purposes of prostitution and forced labor.

The law considers sexual harassment a civil crime. There were no statistics on the incidence of sexual harassment, but it generally was acknowledged to be widespread.

Legal services offices devoted to family and women's rights operated throughout the country. The Maternal and Infant Health Insurance Program provided health services to women of reproductive age and to children under age five.

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Public Health.

The government provided direct cash transfers to expecting and new mothers to defray the cost of prenatal and neonatal care and to reduce the birth mortality rate.

Women were entitled to the same legal rights as men; however, many women were unaware of their legal rights. Women generally did not enjoy a social status equal to that of men. Traditional prejudices and social conditions remained obstacles to advancement. In rural areas traditional practices restricting land inheritance for women remained a problem. The minimum wage law treats men and women equally; however, women generally earned less than men for equal work. Women sometimes complained that employers were reluctant to hire them because of the additional costs (mainly maternal) in a woman's benefits package. The gender gap in hiring appeared widest in the higher education brackets. Most women in urban areas worked in the informal economy and the services and trade sectors, including domestic service and microbusiness, whereas in rural areas the majority of economically active women worked in agriculture. Young girls often left school early to work at home or in the informal economy.

Numerous domestic and international women's rights groups worked to advance women's rights and integrate women into the mainstream of society.

#### Children

Birth certificates were registered either via a notary's affirmation of the certificate or through testimony of two adults regarding a child's parentage. Registered birth certificates were necessary to obtain national identification cards.

Corporal punishment and verbal abuse were common in schools. Children from 11 to 16 years of age may be detained indefinitely in children's centers for suspected offenses or for their own protection on the orders of a social worker. There also were many children living on the streets of major cities. The UN Children's Fund (UNICEF) estimated that more than

3,700 children and adolescents lived on the streets in the cities of La Paz, El Alto, Santa Cruz, Cochabamba, Tarija, and Sucre.

Child prostitution was a problem, particularly in urban areas and in the Chapare region. There were reports of children trafficked for forced labor to neighboring countries. According to Pastoral de Movilidad Humana, the local representative of the UNHCR, each month between nine and 11 children in the southern part of the country disappeared and were presumed victims of trafficking. Several NGOs had active programs to combat child prostitution.

There were 260 Defender of Children and Adolescents offices to protect children's rights and interests nationwide. The government's plan to combat child labor included a public information campaign against child prostitution and raids on brothels.

#### Trafficking in Persons

The law prohibits trafficking in persons and specifically criminalizes trafficking in persons for the purpose of prostitution. However, there were credible reports that persons were trafficked to, from, or within the country.

The country was a source for men, women, and children trafficked for forced labor and sexual exploitation to Argentina, Chile, Brazil, Spain, and the United States. Faced with extreme poverty, many citizens became economic migrants, and some were victimized by traffickers as they moved from rural areas to cities and then abroad. Women and children, particularly from indigenous ethnic groups in the Altiplano region, were at greater risk of being trafficked. Children were trafficked within the country to work in prostitution, mines, domestic servitude, and agriculture, particularly on sugarcane and Brazil nut plantations. Weak controls along its extensive borders made the country an easy transit point for illegal migrants, some of whom may have been trafficked. Commercial sexual exploitation of children also remained a problem.

While there were reports that some adolescents were sold into forced labor, it appeared that most victims initially were willing economic migrants who later were trafficked by being duped or coerced into conditions of forced labor.

The law criminalizes trafficking and provides for a prison term of four years, which may be increased to 12 years when the victim is less than 14 years of age. The government investigated 153 cases of trafficking in persons; while there were some arrests, only three cases received formal sentences and the majority of individuals arrested either remained in detention or were out of jail awaiting trial.

The Ministry of Justice, via an interinstitutional committee, has responsibility for combating trafficking. The Ministry of Government, including the National Police and the Immigration Service, the Ministries of Foreign Affairs, Labor, and Sustainable Development, as well as prefectures and municipalities, has secondary responsibility. The human rights ombudsman nonetheless noted that the government had little presence at the borders to control trafficking, and that unauthorized entities and agents issued permission documents for minors to travel abroad.

Some government officials reportedly took bribes to facilitate smuggling and the illegal movement of persons; however, the government did not condone or facilitate trafficking.

The municipal Defender of Children and Adolescents offices, sometimes in cooperation with NGOs, managed scattered assistance programs for victims. La Paz Department and the La Paz city government each operated a shelter for abused and exploited children.

The International Organization for Migration (IOM) and the NGOs Save the Children and Pro-Adolescente conducted public awareness campaigns on trafficking of children.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

The law prohibits discrimination against persons with disabilities and identifies the rights and benefits afforded them. There was no official discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. The government did not effectively enforce these provisions, however, and societal discrimination kept many persons with disabilities at home from an early age, limiting their integration into society. The Law on Disabilities requires wheelchair access to all public and private buildings, duty-free import of orthopedic devices, a 50 percent reduction in public transportation fares, and expanded teaching of sign language and Braille.

The National Committee for Handicapped Persons was responsible for protecting the rights of persons with disabilities.

#### National/Racial/Ethnic Minorities

The human rights ombudsman reported that approximately 70 percent of the population considered racism a problem. There was societal and systemic discrimination against the small black minority, which generally remained at the low end of the socioeconomic scale and faced severe disadvantages in health, life expectancy, education, income, literacy, and employment. The majority of the estimated 35,000 Afro-Bolivians lived in the Yungas region of La Paz Department.

#### Indigenous People

In the 2001 census, approximately 62 percent of the population over 15 years of age identified themselves as indigenous, primarily from the Quechua and Aymara groups. The IACHR reported that 70 percent of these indigenous people lived in poverty or extreme poverty, with little access to education or to minimal services to support human health, such as clean drinking water and sanitation systems. The government embarked on a wide-ranging program to increase access to potable water and sanitation in rural areas where indigenous persons predominated.

Indigenous lands are not demarcated fully, and land reform remained a central political issue. Historically, a majority of indigenous people shared lands collectively under the "ayllu" system, a system that was not legally recognized during the transition to private property laws. Despite laws mandating reallocation and titling of lands, recognition and demarcation of indigenous lands have not been fully accomplished. Indigenous people protested outside exploitation of their resources. In 2007, the UN Declaration on the Rights of Indigenous People was adopted as law, and states that indigenous peoples have the right to control natural resources in their territories.

Indigenous peasants illegally occupied several private properties, often with the backing of the Landless Movement. Since 2007 at least seven illegal seizures of mines by campesinos have been reported. On September 22, campesinos from Oruro Department took the Kori Kollo mine from the Inti Raymi Company, demanding payment for their lands, as well as compensation for environmental damages and the use of original indigenous lands. Inti Raymi halted operations, evacuated its workers, and presented a legal complaint to resolve the conflict. The case was ongoing at year's end.

Indigenous people continued to be underrepresented in government and politics and bore a disproportionate share of poverty and unemployment. Government educational and health services remained unavailable to many indigenous groups living in remote areas. The government tried to improve the situation with the delivery of monthly payments of 100 to 200 bolivianos (\$14 to \$28) to the elderly and similar funding for more than one million children to attend school.

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

The law prohibits discrimination based on sexual orientation, including by police, and citizens are allowed to change their name and gender on their official identity cards. However, societal discrimination against gay, lesbian, bisexual, and transgendered persons was common and noted in local media editorials. Organizations advocating for lesbian, gay, bisexual, and transgender persons existed and marches occurred, including a small annual gay pride parade. One student was reportedly expelled from high school for being gay, although school authorities denied that was the reason for the expulsion.

#### Other Societal Violence or Discrimination

The human rights ombudsman reported that persons with HIV/AIDS faced pervasive discrimination. There were few if any registered acts of violence against persons with HIV/AIDS. No formal government programs existed to combat HIV/AIDS discrimination.

#### Section 7 Worker Rights

##### a. The Right of Association

While the law allows workers to form and join trade unions, in practice this right was limited due to inefficient labor courts and inadequate government regulation. Approximately 25 percent of workers in the formal economy, which employed an estimated 30 percent of all workers, belonged to unions.

Workers may form a union in any private company of 20 or more employees; however, the minimum requirement of 20 workers proved a heavy restriction, as an estimated 72 percent of enterprises had fewer than 20 employees.

Public-sector workers also have the right to form unions. The law requires prior government authorization to establish a union and confirm its elected leadership, permits only one union per enterprise, and allows the government to dissolve unions by administrative fiat.

The central government had close ties with certain umbrella labor organizations such as the Central Workers Union of Bolivia (COB) and the Confederation of Farm Workers (CSUTCB). The government exerted pressure on national leadership and local chapters of many of these organizations and funded parallel chapters in areas where the government had less influence. As one example, after disagreements with the leadership of the CSUTCB, the MAS funded a parallel organization in many departments. Although the COB officially recognized the first CSUTCB leadership, the MAS heavily funded the alternative group, and many media outlets ceased to refer to the first CSUTCB group or its leadership.

The law provides most workers with the right to strike but requires unions to seek prior government mediation; the law requires the same of employers before they initiate a lockout.

Public service employees, including those in banks and public markets, are prohibited from striking; despite this, workers in the public sector (including teachers, transportation workers, and health care workers) frequently went on strike and were not penalized for such strike activities. Solidarity strikes are illegal, but the government neither prosecuted nor imposed penalties in such cases.

##### b. The Right to Organize and Bargain Collectively

The law provides workers the right to organize and bargain collectively; however, collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the government, was limited. Most collective bargaining agreements were restricted to wages.

The law prohibits antiunion discrimination and requires reinstatement of employees illegally fired for engaging in union activity. The National Labor Court handles complaints of antiunion discrimination, but it can take a year or more to rule due to a significant backlog of cases. The court ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders stated that problems often were moot by the time the court ruled.

There are no special laws or exemptions from regular labor laws in special duty-free zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers continued, as did some alleged individual cases of household workers effectively held captive by their employers.

In many cases Guarani families worked land owned by landlords in exchange for housing and food but were not paid the minimum wage. As a result they incurred large debts to their landlords and were not permitted to leave the property without satisfying their debt. Many of these families lived in very poor conditions, without water, electricity, medical care, or schools.

There were victims of forced labor, mostly indigenous, harvesting Brazil nuts in Beni Department. The work was seasonal, lasting approximately three months per year. During that time landlords sold basic foodstuffs to workers at inflated prices; workers subsequently incurred large debts and were not permitted to leave the property until the debts were satisfied. Similar conditions existed in the sugar, cattle, corn and peanut industries in Santa Cruz Department.

#### d. Prohibition of Child Labor and Minimum Age for Employment

Child labor remained a serious problem. The law prohibits all paid work by children under the age of 14; however, in practice the Ministry of Labor generally did not enforce child labor laws, including those pertaining to the minimum age and maximum hours for child workers, school completion requirements, and health and safety conditions for children in the workplace. The law prohibits a range of dangerous, immoral, and unhealthy work for minors under the age of 18. Labor law permits apprenticeship for 12 to 14-year-old children under various formal but poorly enforced restrictions, which have been criticized by the International Labor Organization and were considered by some to be tantamount to bondage.

The Ministry of Labor is responsible for enforcing child labor provisions but did not enforce them throughout the country. According to the International Labor Organization, 313,529 children between the ages of seven to seventeen work in Bolivia, and approximately 142,000 are girls. Although the law prohibits persons under 18 years of age from work in the sugarcane fields, approximately 10,000 rural migrant children (7,000 of whom were under the age of 14) did so. Children worked in forced labor situations in the production of sugarcane and Brazil nuts.

There was also evidence of exploitation of indigenous children in the regions of the Chaco, Beni, and Santa Cruz, and in cities across the country wherever individuals were migrating in from the countryside. Urban children sold goods, shined shoes, and assisted transport operators. Rural children often worked with parents from an early age, generally in subsistence agriculture. Children generally were not employed in factories or formal businesses but, when employed, often worked the same hours as adults. Children also worked in mining gold, silver, and tin, and in other dangerous occupations in the informal sector.

Narcotics traffickers used children to transport drugs. Child prostitution remained a problem. According to the human rights ombudsman, 3,000 children lived in the streets, many of whom were exploited sexually. The report stated that more than

100,000 children worked eight to 12 hours a day. The IOM estimated that 2,000 girls worked, or were forced to work, as prostitutes.

The traditional practice of "criadito" service persisted in some parts of the country. Criaditos are indigenous children of both sexes, usually 10- to 12-year-olds, whom their parents indenture to middle- and upper-class families to perform household work in exchange for education, clothing, room, and board. Such work is illegal, and there were no controls over the benefits to, or treatment of, such children.

The government devoted limited resources to investigating child labor cases, but NGOs and international organizations such as UNICEF supplemented the government's efforts.

The government continued its efforts to eliminate child labor in its worst forms, working with NGOs to discourage the use of child labor in the mining and sugar sectors by participating in internationally funded programs to provide educational alternatives to children who otherwise would work in mines or sugarcane fields. Nonetheless, according to the human rights ombudsman, 3,800 children worked in mining.

#### e. Acceptable Conditions of Work

During the year the government raised the minimum monthly wage to 647 bolivianos (\$92) for the public and private sectors, from 577 bolivianos (\$82) in 2008. The minimum wage did not provide a decent standard of living for a worker and family. Most private-sector workers earned more than the minimum wage. While the minimum wage fell below prevailing wages in most jobs, certain benefit calculations were pegged to it. Many independent workers were part of the informal economy, and did not receive the minimum wage.

Labor laws establish a maximum workweek of 48 hours, limit women to a workday one hour shorter than that of men, prohibit women from working at night, mandate rest periods, and require premium pay for work above a standard workweek. In practice the government did not effectively enforce these laws.

The Ministry of Labor's Bureau of Occupational Safety has responsibility for protection of workers' health and safety, but relevant standards were poorly enforced. There were fewer than 30 inspectors in the entire country. While the government did not maintain official statistics, there were reports that workers died due to unsafe conditions, particularly in the mining and construction sectors. A national tripartite committee of business, labor, and government representatives was responsible for monitoring and improving occupational safety and health standards. The Ministry of Labor maintained an office for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in cooperative-operated mines remained poor. Miners continued to work with no scheduled rest for long periods in dangerous, unhealthy conditions and earned relatively little for their efforts; some earned less than 12 bolivianos (\$1.70) per 12-hour day. Conditions have changed little in the past decades, as independent miners' cooperatives lacked the financial and technical resources needed to improve mine infrastructure. The law provides workers the right to remove themselves from dangerous situations without fear of losing their jobs.