



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2009 Country Reports on Human Rights Practices](#) » [Western Hemisphere](#) » [Chile](#)

2009 Human Rights Report: Chile

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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Chile is a multiparty democracy with a population of approximately 16 million. On December 13, in free and fair elections voters chose Sebastian Pinera Echenique of the center-right Coalition for Change and Eduardo Frei Ruiz-Tagle of the center-left Concertacion coalition as the two presidential candidates for a runoff election scheduled for January 17, 2010. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. There were isolated reports of excessive use of force and mistreatment by police forces, physical abuse in jails and prisons, and generally substandard prison conditions. The government generally took steps to investigate and punish abusers. Domestic violence against women and children was widespread. There were incidents of trafficking in persons. Some indigenous people suffered discrimination. Many children were employed in the informal economy.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings. However, on August 12, in Ercilla, police shot and killed Jaime Mendoza, who had joined an occupation of private land organized by indigenous persons. A military court indicted a police corporal for the shooting; he remained free on bail, and the case was pending at year's end (see section 6, Indigenous People). The case against another police corporal for the January 2008 shooting of Matias Catrileo in similar circumstances was pending at year's end (see section 6, Indigenous People).

On September 4, the Rancagua Appeals Court indicted Juan Rivera and Walter Medina, former members of the uniformed national police (Carabineros), for the 1988 killings of Manuel Rodriguez Patriotic Front activists Raul Pellegrini and Cecilia Magni. Two other former Carabineros were indicted in 2007 for their role in the same killings. Both cases remained pending at year's end.

On December 7, Judge Alejandro Madrid charged six persons in the poisoning death of former president Eduardo Frei Montalva in 1982. A National Intelligence Directorate (DINA) agent, a doctor, and Frei's driver (who allegedly worked

secretly for DINA) were charged with murder; two other doctors who allegedly falsified the autopsy were charged as accessories to the crime, and another doctor was charged as an accomplice.

On September 8, Judge Alejandro Madrid charged seven former army officials with obstruction of justice in the case of dual Chilean–Spanish citizen Carmelo Soria, who was killed by DINA agents in 1976. One of the seven, Sergio Cea, was the military prosecutor in charge of investigating Soria's death in 1993. The case remained pending at year's end.

On January 29, the Santiago Appeals Court upheld the June 2008 convictions of nine former DINA agents, including former DINA director Manuel Contreras and two civilians, for the 1974 car bomb assassination of former army commander Carlos Prats and his wife in Buenos Aires, Argentina. An appeal was pending before the Supreme Court at year's end.

On September 7, the Supreme Court convicted and sentenced five former DINA agents, including Manuel Contreras, to 10 years in prison for the 1974 death of Lumi Videla. Another former DINA agent was sentenced to five years for the same killing. The Supreme Court also convicted two of the six DINA agents for the disappearance of Videla's husband, Sergio Perez (see section 1.b.).

Judge Jorge Zepeda's investigations of retired security officer Rafael Gonzales, charged in connection with the 1973 killings of U.S. citizens Charles Horman and Frank Teruggi, remained pending at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

Courts prosecuted a number of historical cases based on plaintiffs' arguments that the abduction of political prisoners constituted a continuing crime, not covered by amnesty, unless the subsequent execution of the prisoner could be established concretely by identification of remains. The Supreme Court upheld a number of convictions based on indefinite or permanent kidnapping. In other cases the courts upheld the statute of limitations or lessened sentences, allowing the convicted persons to serve time outside of prison.

There were no developments in Judge Jorge Zepeda's investigation into the 1985 disappearance case of U.S. citizen Boris Weisfeiler.

On September 1, Judge Victor Montiglio reportedly issued 129 indictments of former members of the army, air force, navy, Carabineros, plainclothes Investigations Police (PDI), and prison system (Gendarmeria) for "permanent kidnappings" perpetrated by DINA agents from 1974 to 1976 in "Operation Colombo," "Operation Condor," and "Calle Conferencia." "Operation Colombo" covered up DINA detentions of 119 Chileans by placing false media reports in Argentina and Brazil stating that the disappeared individuals had died in those countries. "Operation Condor" was a 1970s intelligence-sharing operation among South American dictatorships that included Chile and coordinated assassinations within countries and across international borders. "Calle Conferencia" refers to the 1976 detentions and disappearances of Communist Party leaders.

On September 7, the Supreme Court convicted and sentenced three former DINA agents, including Manuel Contreras, to five years in prison for the 1974 disappearance of Sergio Perez. One of the three was allowed to serve time outside of prison. The Supreme Court also convicted two of the three for the 1974 murder of Perez's wife, Lumi Videla (see section 1.a.).

A criminal court investigation of the 1974 disappearance of Gloria Lagos Nilsson remained pending at year's end.

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

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Although the constitution prohibits such practices, nongovernmental organizations (NGOs) received reports of abuse and mistreatment by the Carabineros, the PDI, and prison guards. Few reports of abuse or mistreatment led to convictions.

The Gendarmeria opened administrative investigations into 88 allegations of abuse during the year, compared with 107 such cases in 2008. Of the new cases, one resulted in officials receiving sanctions, 11 were closed, and 76 were pending at year's end.

On September 25, the Supreme Court convicted and sentenced retired air force officers Edgar Cevallos and Ramon Caceres to three years in prison for torturing 17 individuals between 1973 and 1975 at the Air Force War Academy. The court permitted the convicted to serve time outside of prison. This was the first Supreme Court ruling on a torture case from the dictatorship era, and it was the country's first ruling to identify torture as a crime against humanity.

Prison and Detention Center Conditions

Prison conditions generally were poor. Prisons often were overcrowded and antiquated, with substandard sanitary conditions. At year's end there were approximately 52,260 prisoners in prisons designed to hold 35,845 inmates. Prisoners included 4,255 women, who are held in separate sections of the same facilities, and 1,411 minors held in specially designated facilities. Prisons in the Santiago Metropolitan Region (RM) were at nearly double their capacity. The 2009 Diego Portales University Law School *Annual Report on Human Rights* reiterated that overcrowded prisons with substandard sanitary, food, and medical services were a problem in some prisons; it also described cases of prisoner abuse and use of excessive force. The report added that space and hygiene conditions in privately operated prisons were considerably better than those in publicly run prisons.

In isolated instances prisoners died due to lack of clear prison procedures and insufficient medical resources. Prison officials reported that there were 73 deaths from preventable causes during the year, compared with 63 in 2008; in the same period, 60 inmates had been killed by other prisoners, and 13 had committed suicide. Prisoners with HIV/AIDS and mental disabilities allegedly failed to receive adequate medical attention in some prisons.

On April 26, 10 inmates died in a cell fire started during a fight between rival gangs at the Colina II penitentiary center. A prosecutor was assigned to investigate, and the case was pending at year's end.

On June 2, Supreme Court prosecutor Monica Maldonado presented to the Senate's Constitution, Legislation, and Justice Committee a report on the prison system, which concluded that the system lacked rehabilitative policies and actions and that overcrowding led to degrading living conditions.

A March 2008 UN Children's Fund report on the more rehabilitative juvenile justice system established under a 2007 reform law noted deficient implementation of schooling and training programs, a lack of appropriate medical attention and administration of medicines, the use of solitary confinement despite its prohibition in the law, and the absence of segregation of youths by age and gender. At year's end approximately 1,400 minors were incarcerated in the new system, of whom nearly 850 were held provisionally during their trial.

On December 9, an agreement to stay proceedings conditionally was reached in the case of six former employees of the National Children's Service (SENAME) charged with manslaughter for the April 2008 death of 10 adolescents in their care at the Tiempo de Crecer juvenile detention center in Puerto Montt.

The government permitted prison visits by independent human rights observers, and such visits took place at both government-run and privately operated facilities. Prisoner rights and human rights groups continued to investigate alleged use of abuse or excessive force against detainees.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the Carabineros, overseen by the Ministry of Defense, and the PDI, overseen by the Ministry of the Interior. The government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention

Only public officials expressly authorized by law can arrest or detain citizens. Authorities must immediately inform a prosecutor of an arrest and generally did so in practice.

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

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

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

e. Denial of Fair Public Trial

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

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. National and regional prosecutors investigate crimes, formulate charges, and prosecute cases. Three-judge panels form the court of first instance; the process is oral and adversarial, trials are public, and judges rule on guilt and dictate sentences. Court records, rulings, and findings were generally accessible to the public.

The law provides for the right to legal counsel, and public defender's offices in all 14 regions and the Santiago RM provide professional legal counsel to anyone seeking such assistance. When requested by other human rights organizations or family members, the NGO Corporation for the Promotion and Defense of the Rights of the People and other lawyers working pro bono assisted detainees during interrogation and trial. Defendants enjoy a presumption of innocence and have a right of appeal.

For crimes committed prior to the implementation of the 2005 judicial reforms, criminal proceedings are inquisitorial rather than adversarial. In 2008 authorities closed four of the six remaining inquisitorial criminal courts in the Santiago RM, and all prereform cases faced extensive waits for trial. At year's end the two remaining inquisitorial criminal courts remained open.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees, although a number of inmates convicted of terrorist acts following the return to democracy in 1990 claimed to be political prisoners.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, which permits access for lawsuits regarding human rights violations. However, modernization of the judiciary has not affected the civil justice system, which was characterized by antiquated and inefficient procedures. The average civil trial lasted approximately five years, and civil suits could continue for decades. There are administrative as well as judicial remedies available for alleged wrongs.

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

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

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice, subject to certain legal restrictions.

Human rights groups and press associations criticized the existence and application of laws that prohibit insulting state institutions and that allow government officials to bring charges against journalists who insult or criticize them. Military courts may charge and try civilians for defamation of military personnel and for sedition, but their rulings can be appealed to the Supreme Court.

Two major media groups, which were largely independent of the government, controlled most of the print media. The government was the majority owner of *La Nacion* newspaper but did not directly control its editorial content. International print media operated freely.

The broadcast media generally were independent of direct government influence. The Television Nacional network was state owned but not under direct government control. It was self-financed through commercial advertising, editorially independent, and governed by a board of directors appointed by the president and approved by the Senate.

The government-funded National Television Council (CNTV) is responsible for ensuring that television programming respects "the moral and cultural values of the nation." The CNTV's principal role is to regulate violence and sexual explicitness in both broadcast and cable television programming. Films and other programs judged by the CNTV to be excessively violent, have obscene language, or depict sexually explicit scenes may be shown only after 10 p.m., when "family viewing hours" end. The CNTV occasionally levied fines or pressured stations to reschedule programs.

On January 27, the general prosecutor requested a 15-year sentence for documentary filmmaker Elena Varela Lopez, charged with "illegal association with intent to commit an offense" and "links with a terrorist group" related to bank raids in 2004-05. In May 2008 authorities arrested Varela while she was covering the conflict between lumber companies and the Mapuche indigenous group and confiscated her equipment and 300 videotapes. She was released from custody after three months but placed under nighttime house arrest, which continued at year's end.

Internet Freedom

There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. While the PDI maintained a cybercrime unit that monitored Web sites for financial crimes and child pornography, there were no reports that the government monitored e-mail or Internet

chat rooms for other purposes. The International Telecommunication Union reported that there were 32 Internet users per 100 inhabitants in 2008.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

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

c. Freedom of Religion

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

Societal Abuses and Discrimination

There were reports of anti-Semitic incidents during the year, such as acts of vandalism, verbal slurs, and online harassment. On January 4, an unidentified individual called the police with a death threat to Jewish teenagers who were participating in a summer camp in Pirque. There were approximately 15,000 members of the Jewish community.

Neo-Nazi and skinhead groups engaged in gang-type criminal activities and violence against immigrants, homosexuals, punk rockers, and anarchists, including killing a punk rocker by a skinhead. Some skinhead groups shared the anti-Semitic rhetoric of neo-Nazi groups. On December 1, skinhead and former leader of a neo-Nazi group Elliot Quijada was arrested for disseminating xenophobic messages after harassing a chamber deputy and writing hostile messages against Jews on Web sites.

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

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

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

The law prohibits forced exile, and it was not used.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The law provides 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 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 opinions. Between January and December, 185 residents were given recognized refugee status for a total of 1,539 residents with that status at year's end. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. Refugees may be naturalized after five years of permanent residency if they demonstrate financial independence and have no criminal record.

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

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

Elections and Political Participation

On December 13, voters in free and fair elections chose Sebastian Pinera Echenique of the center-right Coalition for Change and Eduardo Frei Ruiz-Tagle of the center-left Concertacion coalition as the two presidential candidates for a runoff election scheduled for January 2010. On December 13, voters also elected 18 of the 38 senators and all members of the Chamber of Deputies in elections generally considered free and fair. Political parties can operate without restriction or outside interference.

Of the candidates elected on December 13, 17 of 120 members of the Chamber of Deputies and five of the 38 members of the Senate (including three of the 18 newly elected senators) were women. There were 10 women in outgoing President Bachelet's 22-member cabinet; women filled 28 percent of governmental appointments in her administration. However, women continued to be underrepresented among elected officials, constituting, for instance, only 12 percent of mayors.

Indigenous people have the legal right to participate freely in the political process, but relatively few were active. No member of the legislature or the cabinet was known to be of self-identified indigenous descent.

Section 4 Official Corruption and Government Transparency

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

On January 20 and July 2, the former administration manager of the State Railroad Company, Claudio Carreno, was convicted of fraud for acts that in 2005-06 generated a loss of 371 million pesos (approximately \$706,000) in public funds. Carreno received two sentences of 600 days in prison, fines totaling 17 million pesos (approximately \$33,500) plus a third of the costs of both trials, and a suspension from public office during the prison sentence.

On April 30, former Ministry of Education employee Franka Grez was convicted of 19 counts of embezzlement of public funds. While Grez served in the accounting and finance section of the ministry, she approved subsidy payments to a school inspector and his wife, who were also convicted. Grez was sentenced to 11 years in prison; the inspector and his wife were sentenced to seven years in prison. The three also had to repay the 290 million pesos (approximately \$571,000) they embezzled.

Between April and December, 17 individuals from two corruption rings within the judicial system were convicted of crimes including criminal association, bribery, falsification of public documents, and obstruction of an investigation. The separate but related criminal rings falsified certifications that a prisoner had completed time, misplaced files, and falsified judicial decisions. Those convicted included six current and two former PDI officers, two Carabineros, and two judicial officials.

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

The constitution requires the government and its agencies to make all unclassified information about their activities available to the public. On April 20, the Transparency of the Public Administration and Access to Information Law went into effect. This law regulates government transparency and public access to information. The law applies to ministries; regional, provincial, and municipal level governments; the armed forces, police, and public security forces; and public enterprises where the state owns more than 50 percent or holds a majority of appointments on the board of directors. The law created an autonomous Transparency Council to provide for the right of access to information and to rule on cases in

which information is denied. During the year the Transparency Council considered 627 cases of denials for information requests. The council made decisions on 47 percent of those, while the remaining cases were under analysis. Any individual or entity may request information and appeal to the council free of charge. The new law also requires all ministries and public agencies to publish certain information on their Web sites.

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

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

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. For example, the UN rapporteur on indigenous peoples in April and the Inter-American Commission on Human Rights (IACHR) rapporteur on the rights of the child visited in November. Both visits yielded reports that included criticisms of the government (see section 6, Indigenous People).

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, age, nationality, national origin, disability, language, or social status, and the government enforced these prohibitions; however, such discrimination continued to occur.

Women

Rape, including spousal rape, is a criminal offense. Penalties for rape range from five to 15 years' imprisonment, and the government generally enforced the law. Statutory rape applies to victims 14 years of age and under.

The law protects the privacy and safety of the victim making the charge. During the year the Public Prosecutor's Office investigated 5,199 cases of rape, and the courts handed down 872 rape convictions. Experts, however, believed that most rape cases went unreported.

The Ministry of Justice and the PDI operated several offices specifically dedicated to providing counseling and assistance in rape cases. A number of NGOs, such as La Morada Corporation for Women, provided counseling for rape victims.

Domestic violence against women remained a serious problem. During the year the Public Prosecutor's Office initiated investigations into 110,162 cases of family violence. From January to December, 56 women were killed as a result of domestic or sexual violence, compared with 59 in 2008.

Government actions to confront domestic violence included a national awareness campaign that began in October 2008; operation of 90 assistance centers and 25 shelters for women; and partnerships with NGOs to provide training for police officers and judicial and municipal authorities on the legal, medical, and psychological aspects of domestic violence.

Although adult prostitution is legal, bordellos are not. Several hundred women registered as prostitutes with the National Health Service. Police often detained prostitutes (usually as a result of complaints by neighborhood residents) on charges of "offenses against morality," which could lead to a fine of 50,000 pesos (approximately \$99) or five days in prison. Procurement or pandering is illegal and punishable under law.

Sexual harassment generally was recognized as a problem. The law provides protection and financial compensation to victims of sexual harassment and penalizes harassment by employers or coworkers. The Labor Directorate received 302 complaints of sexual harassment during 2008, of which 58 percent involved harassment by a hierarchal superior.

Generally, couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to contraception and skilled attendance at delivery and in postpartum care were available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV/AIDS. On October 29, the Santiago Appellate Court upheld a June 16 Comptroller General resolution that in effect prohibited the distribution of emergency contraception in the public health system. Emergency contraception was legally available in the private health system.

Women enjoy most of the same legal rights as men, including rights under family law and property law. Despite the 1994 introduction of a "community property" marital arrangement, in which each spouse maintains separate control of the assets brought into the marriage, the default and most common marital arrangement is "conjugal society," which gives a husband the right to administer joint property, including his wife's property. Under a 2007 agreement with the IACHR, the government committed to modify the law to give women and men equal rights and responsibilities in marriage. Implementing legislation remained pending at year's end.

The commercial code provides that unless a woman is married under the separate estate regime, she may not enter into a commercial partnership agreement without permission from her husband; a man may enter into such an agreement without permission from his wife.

The 2007 Supplemental Survey of Incomes estimated that the overall gender income gap had decreased to 25 percent, compared with 33 percent in 2004. Among those with university education, the income gap was 33 percent, compared with 38 percent in 2004. On December 19, a new law providing for equal pay for equal work went into effect. The law requires companies with 10 or more workers to establish a formal internal complaint procedure, while those with 200 or more workers must also generate a registry detailing employee positions and functions. The labor code provides specific benefits for pregnant workers and recent mothers, including a prohibition against dismissal. The National Women's Service is charged with protecting women's legal rights.

Children

Citizenship is derived by birth within the country's territory and from one's parents or grandparents.

Violence against children was a significant problem. The government's First National Survey of Victimization of Domestic Violence and Sex Crimes, conducted from 2006 to 2008, found that 72 percent of children had suffered some form of violence including psychological abuse.

The law prohibits sexual abuse of minors and suspends the statute of limitations in such cases. During the year the Public Prosecutor's Office investigated 333 cases of commercial juvenile sexual exploitation, compared with 347 in 2008. Also during the year, SENAME assisted 1,062 victims of commercial juvenile sexual exploitation, compared with 1,216 in all of 2008. SENAME ran 14 programs specifically for victims of commercial sexual exploitation and 48 additional programs for children and youth in high-risk situations, including commercial sexual exploitation. SENAME also partnered with municipal governments to run 108 local branches of the Office for the Protection of Children's Rights throughout the country. SENAME, the Carabineros, and the PDI cooperated with schools and NGOs to identify children in abusive situations, provide counseling and other social services to abused children, and keep families intact.

Child prostitution was a problem. Children engaged in prostitution for survival with and without third-party involvement. The criminal code considers 18 the age for consensual sex. Sex with a girl between ages 14 and 18 may be considered statutory rape, and sex with a child under age 14 is considered rape, regardless of consent. Penalties for statutory rape range from three to 10 years in prison. Child pornography is a crime; penalties for producing child pornography range from 541 days to five years in prison.

From July to November, 11 PDI detectives and one PDI lawyer were formally charged for their involvement in a child prostitution ring in Valparaiso (see Trafficking in Persons below).

Child labor in the informal economy was a problem (see section 7.d.).

Trafficking in Persons

The law does not specifically prohibit all forms of trafficking in persons, and there were reports that persons were trafficked to, from, through, and within the country for the purposes of sexual and labor exploitation and involuntary domestic servitude.

Most reported victims were women and minors trafficked to the country for sexual exploitation. Foreign victims were brought to the country from Peru, Argentina, Colombia, Bolivia, Paraguay, and China for commercial sexual exploitation or involuntary domestic servitude or labor. In certain cases it was difficult to distinguish some trafficking victims from economic migrants. Victims were also trafficked from the country to Argentina, Peru, and Bolivia for sexual and labor exploitation. Anecdotal reports suggested that young women were the primary targets for trafficking abroad. Children, along with their families, were trafficked from Peru and Bolivia to work in agriculture. Victims, primarily Chinese men subjected to labor exploitation, were also trafficked through the country en route to Mexico, Brazil, and possibly the United States.

Principal traffickers were small-scale criminals, although reports of trafficking by organized criminal rings increased. Traffickers reportedly used newspaper advertisements for models to lure girls and targeted economically disadvantaged families when looking for children. The majority of transnational trafficking victims reportedly held valid travel documents.

The law criminalizes cross-border trafficking for sexual exploitation, with a minimum penalty of three years in prison and fines beginning at 430,000 pesos (approximately \$847). Sanctions increase to a maximum of 20 years in a number of circumstances, including cases in which the victim is a minor, violence or intimidation is used, deception or abuse of authority is involved, the victim is related to or under the tutelage of the perpetrator, or advantage is taken of a victim's circumstances or disability. The law criminalizes the promotion of child prostitution, corruption of minors, and solicitation of sexual services from a minor in exchange for money or other considerations. Trafficking victims may remain in the country during legal proceedings against their traffickers. Victims may also bring legal action against traffickers and seek restitution. The law does not criminalize transnational trafficking for the purpose of labor exploitation and lacks specific prohibitions against some forms of internal trafficking.

In December 2008 in the country's first case ever against a pedophile and child pornography network, the Santiago Appellate Court increased the sentences against Rafael "Sakarach" Maureira and two others to life in prison for the production and distribution of child pornography, sexual abuse and rape of minors, and illicit association.

An antitrafficking coordinator in the Ministry of the Interior worked with the PDI, the Ministry of Justice, other government agencies, and NGOs to coordinate antitrafficking efforts. During the year the Public Prosecutor's Office opened 146 new trafficking cases, including 22 cases of cross-border trafficking, compared with 126 cases in 2008. Most trafficking-related cases dealt with commercial sexual exploitation of minors. During the year the courts convicted 26 persons of cross-border trafficking, compared with five such convictions in 2008. Twenty-three investigations of cross-border trafficking were active at year's end. The government cooperated with Interpol on law enforcement activities.

Investigations continued into PDI and Carabinero involvement in a child prostitution ring in Valparaiso. From July to November, authorities formally charged 11 PDI detectives and one PDI lawyer with facilitating child prostitution and obstructing an investigation. The cases remained pending at year's end.

The government made substantial efforts to assist trafficking victims. SENAME worked with local offices, international organizations, and NGOs to provide counseling, psychological and health care, and educational opportunities to child victims. SENAME also worked to ensure that child victims would not return to abusive or high-risk situations.

The government also worked with Bolivian and Argentine authorities to coordinate the safe repatriation of foreign victims. The government had no residence visa program for foreign trafficking victims.

Government programs to prevent trafficking included a PDI public awareness campaign, with cinema workshops; ongoing training of police and prosecutors in collaboration with the International Organization for Migration; and participation in the regional training of officials from immigrant services, the National Prosecutor's Office, and the PDI.

The State Department's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities, but such persons suffered forms of de facto discrimination. In October 2008 the New Faces Foundation, an NGO that provides attention to impoverished adults with mental or psychological disabilities, reported an estimated 60,000 persons suffered from moderate or severe mental disability, nearly half of whom received no mental health attention. Approximately 100,000 persons under the age of 27 with disabilities did not receive any special care or education.

A majority of public buildings did not comply with legal accessibility mandates. An improved transportation system in Santiago provided additional, but still limited, accessibility for persons with disabilities. Public transportation outside of the capital remained problematic.

The National Fund for Persons with Disabilities (FONADIS), under the jurisdiction of the Ministry of Planning, has responsibility for protecting the rights of persons with disabilities and for creating programs to promote their better integration into society. FONADIS supported a number of programs through its annual national projects contest.

Indigenous People

The law gives indigenous people (approximately 5 percent of the total population) the right to participate in decisions affecting their lands, cultures, and traditions and provides for bilingual education in schools with indigenous populations. Approximately one-half of the self-identified indigenous population remained separated from the rest of society, largely due to historical, cultural, educational, and geographical factors. Both internal factors and governmental policies limited the participation of indigenous people in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous people also experienced some societal discrimination and reported incidents in which they were attacked and harassed. According to the 2006 Socioeconomic Characteristics Survey, the indigenous population's poverty rate dropped 10 percent since 2003, and the gap between indigenous and nonindigenous poverty narrowed by more than 5 percent. The UN rapporteur on indigenous peoples recognized this improvement in his October report but noted that severe inequality gaps between indigenous and nonindigenous peoples persisted.

The National Corporation for Indigenous Development (CONADI), which included directly elected indigenous representatives, advised and directed government programs to assist the economic development of indigenous people. During the year the Ministry of Education and CONADI provided scholarships to 43,640 indigenous elementary, high school, and college students, compared with approximately 44,000 in 2008. Indigenous groups noted, however, that the scholarships were actually small stipends to cover living expenses and did not necessarily cover tuition costs.

There were isolated instances of violent confrontations between indigenous Mapuche groups and landowners, logging companies, and police in the southern part of the country. The actions normally took the form of protests. Instances of rock

throwing, land occupations, and burning crops, buildings, or vehicles occurred. Members of the Coordinadora Arauco Malleco (CAM), an indigenous group the government accused of committing domestic terrorist acts, reportedly initiated many of these actions.

From January to September, the government applied the antiterrorism law to prosecute 49 Mapuche individuals or sympathizers who committed violent acts of protest in the form of destruction of property or confrontations with police. The Working Group on the UN Human Rights Council Universal Periodic Review, the UN Committee on the Elimination of all forms of Racial Discrimination, and the UN rapporteur on indigenous peoples all recommended that the government limit its application of the antiterrorism law in the context of Mapuche social protest.

There were reports of police abuse against Mapuche individuals and communities and harassment of NGOs associated with the promotion of indigenous rights. The military justice system investigates all cases of alleged police abuse. On August 12, police shot and killed Jaime Mendoza while he and approximately 30 other Mapuche individuals occupied private land in Ercilla. A military court indicted Carabineros Corporal Patricio Jara for "unnecessary violence resulting in death." Jara remained free on bail with the case pending at year's end. On August 21, a military prosecutor charged Carabineros Corporal Walter Ramirez for "unnecessary violence resulting in death" and requested he serve 10 years in prison for the January 2008 shooting of Matias Catrileo. The case remained pending at year's end.

The Citizens' Observatory (OC, formerly the Observatory of Indigenous People's Rights) reported an increased incidence of police searches of Mapuche homes without a warrant, arrest and release of Mapuche individuals without a detention control hearing, and police use of intimidation and discriminatory statements against Mapuche individuals, including minors. The OC also reported that alleged police abuse of Mapuche individuals often occurred during the implementation of court-ordered arrests or search warrants.

On February 11, after the Appellate Court of Concepcion annulled a November 2008 absolution and ordered a new trial, a court absolved alleged CAM member Avelino Menaco of involvement in a 2007 arson fire. The case of one other alleged Mapuche CAM member, arrested in 2007 under charges of arms possession, was transferred to the military justice system and was pending at year's end.

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

There are no laws criminalizing sexual orientation. There are active organizations for gay men, lesbians, bisexuals, transvestites, and transgender persons, which operated free of impediments. On June 27, 10,000 persons participated in the ninth annual gay pride march in Santiago without violence or other incidents. There were also marches in Calama, La Serena, Puerto Montt, and Lota. According to the *Seventh Annual Report on the Human Rights of Sexual Minorities* of the Movement for Homosexual Integration and Liberation (MOVILH), there were 65 cases of discrimination due to sexual orientation in 2008, compared with 57 cases (including four killings) in 2007. The MOVILH cited a decrease in reports of violent attacks against gay men, lesbians, bisexuals, transvestites, and transgender individuals but noted an increase in intrafamilial discrimination by parents who threatened or expelled children from their homes.

On May 28, a homosexual couple of former Carabineros sued the state for 50 million pesos each (approximately \$98,500), alleging that their superiors threatened to make public their sexual orientations if they did not resign. The case remained pending at year's end.

Other Societal Violence or Discrimination

There were no confirmed cases of societal violence or discrimination based on persons with HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

Workers have the right to form and join unions without prior authorization, and approximately 13 percent of the total workforce (estimated at 7.2 million) was unionized in more than 20,000 registered unions. The law allows unions to conduct their activities without interference, and the government protected this right in practice. Police and military personnel may not organize collectively.

Public employees do not enjoy the right to strike. However, on October 13, an estimated 80,000 public school teachers began a three-week strike to pressure the government to deliver back pay.

While employees in the private sector have the right to strike, the government regulated this right, and there were some restrictions. Employers must show cause and pay severance benefits if they dismiss striking workers. The law proscribes employees of 32 private sector companies, largely providers of services such as water and electricity, from striking. It stipulates compulsory arbitration to resolve disputes in these companies. Strikes by agricultural workers during the harvest season are prohibited.

b. The Right to Organize and Bargain Collectively

Collective bargaining is protected by law, but the right of entertainers and temporary agricultural, construction, and port workers to bargain collectively is limited. Intercompany unions were permitted to bargain collectively only if the individual employers agreed to negotiate under such terms. Collective bargaining in the agricultural sector remained dependent on employers agreeing to negotiate.

The 2009 International Trade Union Confederation's *Annual Survey of Violations of Trade Union Rights* reported that 20 companies were found guilty of antiunion practices in the first half of 2008.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor; however, such practices occurred, primarily for domestic servitude and forced prostitution. The labor code does not specifically prohibit forced or compulsory labor by children, and child prostitution remained a problem.

d. Prohibition of Child Labor and Minimum Age for Employment

Despite laws restricting child labor, the employment of children was a problem in the informal economy and in agriculture. Children worked in the production of ceramics and books and in the repair of shoes and garments. Children in urban areas worked as baggers in supermarkets and waited tables in restaurants. They sold goods on the street, worked as domestic servants, and assisted in construction activities. Children in rural areas were involved in caring for farm animals, as well as harvesting, collecting, and selling crops, such as wheat, potatoes, oats, and quinoa. Children also worked in fishing and forestry. Children were also used in drug production and sales and transported drugs in the border area with Peru and Bolivia.

The law provides that children between the ages of 15 and 18 may work with the express permission of their parents or guardians, but they must attend school. They may perform only light work that does not require hard physical labor or constitute a threat to health and childhood development. When attending school, children may not work more than 30 hours a week and in no case more than eight hours a day or between the hours of 10 p.m. and 7 a.m. Their work contracts must be registered by their employers at the local Ministry of Labor inspector's office.

From January to December, there were 289 detected cases of children and adolescents involved in the worst forms of child labor, compared with 268 cases in 2008; 56 percent of these cases involved girls. Most reported child and adolescent labor cases involved children over the age of 15 and children not enrolled in school. Examples included hazardous work in mines, commercial sexual exploitation, and illegal activities.

Ministry of Labor inspectors enforced regulations, and while compliance was good in the formal economy, many children were employed in the informal economy. From January to October, the Ministry of Labor imposed some form of sanction in 47 cases involving violations of child labor laws, compared with 111 cases in all of 2008.

The government devoted considerable resources and oversight to child labor policies. SENAME, in coordination with labor inspectors, identified and assisted children in abusive or dangerous situations. SENAME also implemented public education programs to raise awareness and worked with the International Labor Organization to operate rehabilitation programs. The Ministry of Labor convened regular meetings of a business-labor-government group to monitor progress in eradicating child labor.

e. Acceptable Conditions of Work

The minimum wage is set by law and is subject to adjustment annually. A committee composed of government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. On July 1, the minimum wage increased 3.8 percent to 165,000 pesos (approximately \$288) a month. This wage was designed to serve as the starting wage for an unskilled single adult worker entering the labor force and did not provide a worker and family with a decent standard of living. The minimum wage for domestic servants was 83 percent of that for other occupations. The minimum wage for workers over age 65 and under 18 was 123,176 pesos (approximately \$215) a month. The Labor Directorate, under the Ministry of Labor, was responsible for enforcing minimum wage and other labor laws and regulations, and it did so effectively.

The law sets the legal workweek at six days or 45 hours. The maximum workday length is 10 hours (including two hours of overtime pay), but positions such as caretakers and domestic servants are exempt. The law mandates at least one 24-hour rest period during the workweek, except for workers at high altitudes, who may exchange a work-free day each week for several consecutive work-free days every two weeks. The law establishes fines for employers who compel workers to work in excess of 10 hours a day or do not provide adequate rest days. The government effectively enforced these standards.

The law establishes occupational safety and health standards, which were administered by the Ministries of Health and Labor and effectively enforced. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. The law protects employment of workers who remove themselves from dangerous situations if labor inspectors from the Labor Directorate and occupational safety and health inspectors from the country's Safety Association determine conditions that endanger their health or safety exist. Authorities effectively enforced the standards and frequently imposed fines for workplace violations.