



## U.S. DEPARTMENT of STATE

### Chile

#### Country Reports on Human Rights Practices - [2006](#)

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Chile is a multiparty democracy with a population of approximately 16 million. In January voters elected Michelle Bachelet of the Socialist Party as president in a free and fair runoff election. In December 2005 voters also elected 20 of the 38 senators and all 120 members of the Chamber of Deputies; these elections were also considered generally free and fair. 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, of physical abuse in jails and prisons, and of generally substandard prison conditions. Authorities failed to advise detainees promptly of charges against them and to grant them a timely hearing. Domestic violence against women and children was widespread. There were isolated incidents of trafficking in persons to, from, and within the country. Some indigenous people were marginalized, particularly in rural areas, and suffered some forms of discrimination. Many children were employed in the informal economy.

The judiciary convicted and sentenced several former officials for human rights abuses committed during the 1973-90 military regime. Before his death on December 10, former military dictator Augusto Pinochet faced charges for human rights violations from 1973 to 1990 and for allegedly illegal financial dealings during and following that period.

#### 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 arbitrary or unlawful killings.

In March 2005 the Chamber of Deputies approved a \$1.5 million (780 million pesos) payment to the family of dual Chilean-Spanish citizen Carmelo Soria, who was executed by National Intelligence Directorate (DINA) agents in 1976. Senate action was pending at year's end.

At the time of his death on December 10, former military dictator Augusto Pinochet was under investigation or indictment in at least six cases involving extrajudicial executions, kidnapping, and torture dating from the military government of 1973-89. However, Pinochet was never brought to trial or convicted on human rights charges.

In November the Rancagua Appeals Court ordered Judge Raul Mera to continue investigations in the 1988 killings of Raul Pellegrini and Cecilia Magni. Pellegrini and Magni were Manuel Rodriguez Patriotic Front activists killed in apparent reprisal for an attack on a local police barracks. The court upheld Judge Mera's decision to delay filing charges against two suspects, and the case remained pending at year's end.

Judge Alejandro Solis concluded an investigation of the 1974 car bomb assassination in Buenos Aires of former army commander Carlos Prats in August. Seven former DINA agents, including former DINA director Manuel Contreras, and one civilian have been indicted in the case. At the end of the year, all those indicted in the Prats case were free on bail, except for Contreras, who was serving a 12-year sentence for the death of Miguel Angel Sandoval.

Judge Jorge Zepeda's investigation of retired security officer Rafael Gonzales, charged in connection with the 1973 killing of US citizen Charles Horman, remained pending at year's end.

In March Judge Victor Montiglio filed murder charges against 13 former army officers and amended charges against six others from aggravated kidnapping to murder in the 1973 "Caravan of Death" case. The defendants were temporarily taken into custody, then released on bail. In November Judge Montiglio charged five other former officers, including former dictator Augusto Pinochet, with two additional killings in this case. The case 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 an ongoing crime, not covered by amnesty, unless the subsequent execution of the subject could be established concretely by identification of remains. The Supreme Court upheld a number of convictions based on indefinite or permanent kidnapping.

The judiciary continued to investigate human rights abuses committed by the former military government and, in several cases, passed sentence on those found guilty. According to the Interior Ministry, as of October there were 361 active court cases involving 485 former officials (mostly military officials but including some civilians). By year's end 126 individuals had been convicted and sentenced for human rights violations during the Pinochet regime.

Judge Jorge Zepeda continued investigations of military-era detentions and disappearances of persons at Colonia Dignidad, now called Villa Baviera, a German-speaking settlement 240 miles south of Santiago. Settlement founder Paul Schaefer, indicted in 2005 for his involvement in four kidnappings under the former military regime, was sentenced to seven years in prison on weapons charges in August and faced multiple counts of child molestation. Several of Schaefer's associates, including Gerard Muecke, were jailed and remained under investigation for possible human rights violations at Colonia Dignidad.

The investigation into the 1985 disappearance of US citizen Boris Weisfeiler near Colonia Dignidad remained open at year's end.

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

Although the law prohibits such practices, nongovernmental organizations (NGOs) received isolated reports of abuse and mistreatment by the Carabineros, the Investigations Police (PICH), and prison guards.

Few reports of abuse or mistreatment led to convictions. Military rather than civilian courts typically processed cases of military and police abuse (see section 1.e.).

#### Prison and Detention Center Conditions

Prison conditions generally were poor. Prisons often were overcrowded and antiquated, with substandard sanitary conditions. In November there were approximately 43,500 prisoners in prisons designed to hold 28,700 inmates. Prisons in the Santiago Metropolitan Region were at nearly double capacity. The 2006 Diego Portales University School of Law study on prison conditions reiterated that prison services such as health care remained substandard. Prison food met minimal nutritional needs, and prisoners were able to supplement their diets by buying food. Those with sufficient funds often could "rent" space in a better wing of the prison.

In isolated instances prisoners died due to lack of clear prison procedures and insufficient medical resources in the prisons. In December prison officials reported that deaths by preventable causes increased to 46 in 2005 (compared with 24 in 2004) and continued to increase during the year. As of October 13, 38 inmates had been killed by other prisoners, and 16 inmates had committed suicide.

A study by the public defender's office in seven of 13 regions reported that during 2005, 59 percent of prisoners claimed to have been victims of abuse or attacks. In 34 percent of reported abuse cases, the alleged offenders were prison officials. Seventeen percent of prisoners reported receiving physical punishment, and 6 percent of prisoners described their physical punishment as "torture."

The government permitted prison visits by independent human rights observers, and such visits took place. These included regular visits by Catholic and Protestant clerics and the NGO Paternitas. Amnesty International and the International Committee of the Red Cross were also granted access to facilities and prisoners. Prisoner rights groups continued to investigate alleged use of excessive force against detainees and particularly were concerned with the treatment of prisoners in maximum security prisons. Prisoners with HIV/AIDS and mental disabilities allegedly failed to receive adequate medical attention.

During the year one court case alleging physical abuse or negligence was filed against prison officials. Of the eight court cases filed in 2005, two officials had been absolved; charges were dropped in another case; and one official convicted for abuse received a suspended sentence, a two-month suspension, and was fined \$700 (364,000 pesos) plus court costs. Judicial action in the remaining cases continued at year's end. As of August, courts had not substantiated any of the 29 complaints alleging abuse or negligence that were filed during the year. The Gendarmeria also conducted administrative investigations into all allegations of abuse.

#### d. Arbitrary Arrest or Detention

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

#### Role of the Police and Security Apparatus

The 27,000-member Carabinero force, under operational control of the Ministries of Defense and Interior, has primary responsibility for public order, safety, traffic control, and border security. The PICH, comprising approximately 3,500 detectives, is responsible for criminal investigations and immigration control. While under the operational jurisdiction of the Ministry of Interior, the PICH also receives guidance from the prosecutor or judge in a criminal investigation. The Gendarmeria, with approximately 620 officials and 8,520 corrections officers, operated the national prison system under jurisdiction of the Ministry of Justice. The police force experienced a low incidence of corruption.

Police, prison guards, and officials took courses in human rights, which are part of the core curriculum in the police and military academies.

#### Arrest and Detention

Only public officials expressly authorized by law can arrest or detain citizens. The authorities must advise the courts within 48 hours of the arrest and place the detainee at a judge's disposition. No one can be held or detained except in their home or a jail, prison, or other public facility designed for that purpose.

While the authorities generally respected constitutional provisions for arrest and detention, detainees often were not advised promptly of charges against them nor granted a timely hearing before a judge. However, judicial reforms that took effect in June 2005 improved performance, and during the year more than 80 percent of cases were resolved within the designated period. The law allows civilian and military courts to order detention for up to five days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The law allows judges to set bail. Provisional liberty must be granted unless a judge decides that detention is 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.

The law requires that police inform detainees of their rights and expedite notification of the detention to family members. The law also prohibits police from demanding identification from or stopping persons based solely on suspicion, and it prohibits physical abuse by police against detained persons (see section 1.c.).

The president is authorized to grant amnesty to prisoners and typically grants amnesty to a limited number of prisoners each year on humanitarian grounds.

#### e. Denial of Fair Public Trial

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

The judiciary has civil, criminal, juvenile, family, and labor courts of first instance throughout the country. There are 16 courts of appeal. The 21-member Supreme Court is the court of final appeal. A constitutional tribunal decides whether laws or treaties present conflicts with the constitution. There are also military courts-martial.

#### 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 12 regions and the Santiago Metropolitan Region 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 interrogations and represented some persons charged with terrorist acts in court. Defendants enjoy a presumption of innocence and have a right of appeal.

If formal charges are filed in civilian courts against a member of the military (including the Carabineros), the military prosecutor can ask for jurisdiction, which the Supreme Court occasionally granted. This was particularly significant in human rights cases from the period covered by the Amnesty Law, since military courts were more likely to grant amnesty without a full investigation. Military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Persons arrested during demonstrations for assaulting a police officer also are brought before military tribunals.

Civilians prosecuted in military courts have the same legal protections as those prosecuted in civilian courts. They are entitled to counsel, the charges are public, the sentencing guidelines are the same (with the exception that the death penalty can be imposed in a military court but not in a civilian court), and the Supreme Court ultimately may hear appeals. A military prosecutor formulates charges and conducts the investigation, and the first instance of appeal is in a court-martial, composed of two civilian and three military judges.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees, although a number of inmates in Santiago's maximum security prison charged with terrorist acts following the return to democracy in 1989 claimed to be political prisoners. In July 2005 the Senate approved a law allowing prisoners convicted on terrorism charges to apply for parole; 32 prisoners were eligible to apply under the provisions, but there was no report on how many were released on parole.

#### Civil Judicial Procedures and Remedies

While there is an independent and impartial judiciary in civil matters, which permits access for lawsuits regarding human rights violations, modernization of the judiciary has yet to affect the civil justice system, which was characterized by antiquated and inefficient procedures. Courts were overwhelmed by more than 800,000 new cases each year. The average civil trial lasts more than five years, and civil suits could continue for decades. Additionally, only 8 percent of lawsuits result in a definitive sentence or court-imposed settlement. Of the rest, 90 percent are eventually resolved through mediation outside the courts or settlement between the parties.

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

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

Human rights groups and press associations criticized the existence and application of laws that prohibit insulting state institutions, including the presidency, the legislature, and judicial bodies, and those 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 may be appealed to the Supreme Court (see section 1.e.). Media organizations and individuals can also be sued for libel.

The law prohibits the surreptitious recording of private conversations.

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.

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 (CNT) was responsible for ensuring that television programming "respects the moral and cultural values of the nation." The CNT's principal role was to regulate violence and sexual explicitness in both broadcast and cable television programming content. Films and other programs judged by the CNT 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 CNT occasionally levied fines.

#### 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 electronic mail. While the PICH maintained a sexual crimes unit that monitored Web sites for child pornography and prosecuted several individuals for selling, storing, or trading child pornography on the Internet, there were no reports that the government monitored e-mail or Internet chatrooms for other purposes.

#### 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 assembly and association, and the government generally respected these rights in practice.

#### c. Freedom of Religion

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

Religious organizations were required to register with the Ministry of Interior in order to enjoy religious nonprofit status and provide certain religious services, such as marriage ceremonies.

Although the law grants non-Catholic religions the right to have chaplains in public hospitals, prisons, and military units, some leaders of the country's Protestant churches (accounting for more than 15 percent of the population) noted a reluctance to name Protestant chaplains in the armed forces and obstacles to pastoral visits at military hospitals. Hospitals and prisons outside the military system, however, provided good access to evangelicals as well as other minority religious denominations.

While schools were required to offer religious education twice a week through middle school, enrollment in such classes was optional. The law mandates teaching the creed requested by parents, but enforcement was sometimes lax. Instruction was almost exclusively Roman

Catholic.

In September 2005 the Supreme Court sustained a government challenge to the registration of the Unification Church as a religious nonprofit organization. Since then, the Unification Church continued to operate under a more limited private nonprofit status.

#### Societal Abuses and Discrimination

There were isolated reports of anti-Semitic incidents, including spray-painted graffiti of swastikas and derogatory comments directed at Jewish individuals. The Jewish community was estimated at approximately 21,000 persons.

Neo-Nazi and skinhead groups engaged in gang-type criminal activities and violence against immigrants, homosexuals, punk rockers, and anarchists. While these groups share the anti-Semitic rhetoric of neo-Nazi groups, there were no reports of neo-Nazi attacks targeting the Jewish community. Identified neo-Nazis have been dismissed from the armed forces and Carabineros, and the government closed a neo-Nazi newspaper in 2005.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice.

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

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. During the year, 850 persons residing in the country had recognized refugee status. The government also provided temporary protection to approximately 450 individuals applying for status as refugees under the 1951 convention and the 1967 protocol. These individuals were eligible for government-funded health care and education while awaiting adjudication of their cases and were financially supported by the UN High Commissioner for Refugees (UNHCR) and other organizations. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

#### 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 held on the basis of universal suffrage.

#### Elections and Political Participation

In January voters elected Michelle Bachelet of the Socialist Party as president in a free and fair runoff election. Bachelet is a member of the center-left Concertacion coalition, which includes the Socialist Party, the Christian Democratic Party, the Party for Democracy, and the Radical Social Democrat Party. In December 2005 voters elected 20 of the 38 senators and all 120 members of the Chamber of Deputies in elections generally considered free and fair. President Bachelet and the new congress assumed office on March 11.

There were 15 women in the 120-seat Chamber of Deputies, two women in the 48-seat Senate, and 10 women in the 18-member cabinet. Indigenous people have the legal right to participate freely in the political process, but relatively few were active. No members of the legislature acknowledged indigenous descent.

Women became more visible in political life after Michelle Bachelet assumed the presidency in March. As a result of her policy of "gender parity," women filled nearly 50 percent of governmental appointments. However, women continued to be vastly underrepresented among elected officials, constituting, for instance, only 12 percent of municipal mayors.

#### Government Corruption and Transparency

There were isolated reports of government corruption during the year. Transparency International's annual corruption index recorded that the public perceived the country as relatively free of corruption.

In December 2005 the mayor of Quillota, Luis Mella (Christian Democrat), alleged the government's Employment Generation Program (PGE) paid political allies for work that was not performed. The Public Ministry and the comptroller then initiated parallel investigations into the potential illicit use of public funds. Although earmarked for employment programs, these resources were possibly diverted to the political campaigns of Socialist Party and Party for Democracy candidates in the Fifth Region during the 2005 congressional elections. The PGE investigations revealed that individuals paid to do public works actually spent their time campaigning for political parties.

Further investigations revealed that funds were also misused in other Fifth Region counties. Many midlevel public officials in the regional government, such as the former regional ministerial secretary of labor, were formally investigated, and several local officials were removed.

The government took remedial steps to control public employment programs, dismantling the PGE and designating three government agencies to manage recruitment of public works employers and workers and payment of wages.

In October a government audit revealed financial irregularities in Chiledportes, a national program to promote amateur and professional sport activities. Opposition political figures charged that the funds had been diverted into the national political campaigns of ruling party figures, while the organization's director characterized the issue as "common crime." The government removed all 13 Chiledportes regional directors and initiated a broad-based investigation to determine the extent and nature of potential fraud or mismanagement. Congress created an investigative committee in February, and prosecutors brought charges of tax evasion and falsification of documents against some individuals. Executive, congressional, and judicial investigations were ongoing at year's end.

The Freedom of Information Act requires the government and its agencies to make all unclassified information about their activities available to the public. All government ministries and most public agencies have Web pages. In 2005 the NGO Participa released the results of a far-ranging survey, which found that national and local government agencies failed to respond to 69 percent of requests for information and provided incomplete or otherwise deficient responses to 14 percent of requests.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The Inter-American Court of Human Rights issued two rulings against the government in September. In one case, the court ruled the application of the country's 1978 Amnesty Law in the 1973 killing of Luis Almonacid Arellano constituted denial of justice. The court further ruled that the Amnesty Law could not be applied in the Almonacid case or other cases comprising crimes against humanity for purposes of closing investigations or suspending sentence against persons convicted of those crimes. The court ordered that the government pay Almonacid's family \$10,000 for legal fees. The government accepted the court's ruling, and at year's end Congress was considering legislation to restrict the scope of the Amnesty Law.

In the case of Claude Reyes, the court issued a ruling regarding the government's refusal to release certain financial information about a forestry contract negotiated with a foreign investor in 1998. The contract was never finalized, and the environmentally sensitive project was terminated. However, the court ruled that the government had violated the plaintiff's right to free speech by denying access to public information without a valid justification. The ruling called on the government to provide all the requested information and guarantee effective access to public information in the future. The court also ordered the government to pay the plaintiffs \$10,000 in compensation for legal fees and other expenses.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, color, gender, age, nationality, national origin, or social status, and the government enforced this prohibition; however, such discrimination continued to occur.

##### Women

Domestic violence against women remained a serious problem. A 2004 National Women's Service (SERNAM) study reported that 50 percent of married women had suffered spousal abuse, 34 percent reported having suffered physical violence, and 16 percent reported psychological abuse. From January to November 2005, 76,000 cases of family violence were reported to the Carabineros; 67,913 were reported by women, 6,404 by men, and approximately 1,000 by children.

The courts frequently order counseling for those involved in intrafamily violence. At year's end there were 29 government and private centers to attend to victims of intrafamily violence. During the year the SERNAM partnered with NGOs to conduct courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities.

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. The age for statutory rape is 14. The law protects the privacy and safety of the person making the charge. From January to November, police received reports of 1,926 cases of rape, compared with 2,451 cases in all of 2005. Experts believed that most rape cases went unreported.

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

Although adult prostitution is legal, bordellos are not. Several hundred women were 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 \$96 (50,000 pesos) fine or five days in prison. Procurement or pandering is illegal and punishable under law. Inducing a minor (below age 18) to have sex in exchange for money or other favors is illegal. Punishment ranges from three to 20 years in prison and a \$1,000 (520,000 pesos) fine depending on the age of the minor. A police sexual crimes brigade was specifically charged with investigating and prosecuting pedophilia and child pornography cases.

Sexual harassment generally was recognized as a problem. A 2005 law against sexual harassment provides protection and financial compensation to victims and penalizes harassment by employers or co-workers. From January through September, the Labor Directorate had received 244 complaints of sexual harassment; 205 of these cases involved harassment by a supervisor or employer. During 2005 there were 264 such complaints--254 made by women and 10 by men; 238 of these cases involved a supervisor or employer. Most of the complaints were resolved quickly, resulting in action against the harasser in 33 percent of cases.

Women enjoy the same legal rights as men, including rights under family law and property law. The quadrennial 2004 National Socio-Economic Survey suggested that the overall gender income gap remained at 33 percent, which widened to 38 percent in managerial and professional positions. Women's workforce participation rose to 42 percent. The minimum wage for domestic workers, probably the largest single category of working women, was 75 percent of the standard minimum wage (see section 6.e.). The labor code provides specific benefits for pregnant workers and recent mothers, including a prohibition against dismissal; these benefits also apply to domestic workers. Employers may not ask women to take pregnancy tests prior to hiring them, although the NGO La Morada received reports that the practice continued in some companies. The SERNAM is charged with protecting women's legal rights.

A 2005 study by Corporacion Humana and the University of Chile's Institute of Public Affairs revealed that 87 percent of women surveyed felt that women suffered discrimination. According to the survey, 95 percent believed women faced discrimination in the labor market, 67 percent believed they faced discrimination in politics, 61 percent felt that women were discriminated against by the media, and 54 percent within the family.

## Children

The government is committed to children's rights and welfare.

Education is universal, compulsory, and free from first through 12th grade. The latest government figures showed that in 2002 the median level of education was 10 years but varied regionally and across age groups. The World Bank reported that in 2004 more than 90 percent of school-age children attended school. Three-quarters of the population had completed primary education (eight years), and 61 percent had secondary education (12 years).

The government provided basic health care through a public system, which included regular checkups, vaccinations, and emergency health care. Boys and girls had equal access to health care.

Violence against children was a problem. A 2003 study by the Citizens' Peace Foundation indicated that 60 percent of children surveyed between the ages of seven and 10 had suffered some type of aggression against them or their belongings either inside or outside their homes. A 2006 UNICEF study reported that 75 percent of 13- and 14-year-olds reported they were subject to some type of physical or psychological violence from one or both parents, including 26 percent who reported having suffered serious physical violence (e.g., beatings, cuts, and burns).

From January to November, the Public Ministry reported 197 cases of commercial juvenile sexual exploitation, compared with 195 cases in all of 2005. Since June 2003 the government's National Children's Service (SENAME) assisted more than 2,100 victims of commercial juvenile sexual exploitation. SENAME, the Carabineros, and PICH worked together, along with schools and NGOs, to identify children in abusive situations, provide abused children with counseling and other social services, and keep families intact.

Child prostitution was a problem (see section 5, Trafficking).

Child labor in the informal economy was a problem (see section 6.d.).

## Trafficking in Persons

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

The law criminalizes promoting the entry into or exit from the country of persons for the purpose of facilitating prostitution, with penalties of up to three years in prison and a fine of \$827 (430,000 pesos). Sanctions are increased 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 or under the tutelage of the perpetrator, or advantage is taken of a victim's circumstances or handicap. The law criminalizes the prostitution of children and corruption of minors, and the age of consent for sexual relations is 14. The law criminalizes obtaining sexual services from a minor in exchange for money or other considerations.

Most trafficking victims were minors trafficked internally for sexual exploitation. Within the country, victims reportedly were trafficked from rural areas to urban areas such as Santiago, Iquique, and Valparaiso. Law enforcement authorities stated that small numbers of victims were trafficked to the neighboring countries of Argentina, Peru, and Bolivia, as well as to the United States, Europe, and Asia. Victims reportedly entered the country from Peru, Argentina, Colombia, and Bolivia, although it was difficult to distinguish trafficking victims from economic migrants.

Anecdotal reports suggested that young women were the primary targets for trafficking to other countries. Traffickers reportedly used newspaper advertisements for models and product promoters to lure girls, ages 11 to 17, into prostitution. Law enforcement agencies indicated that traffickers looking for children also targeted economically disadvantaged families, convincing the parents that they were giving

the child the opportunity for a better life.

An antitrafficking coordinator in the Interior Ministry worked with the Public Ministry to gather information on new cases investigated and prosecuted. From May 2005 through March, 83 new cases were opened, with 50 pending active investigations and 14 prosecutions initiated by the year's end. Most trafficking-related cases dealt with commercial sexual exploitation of minors. The Public Ministry investigated 11 cases of cross-border trafficking in persons from January to November, compared with seven cases in all of 2005. Additionally, the PICH sex crimes and cybercrime units worked with the Ministries of Justice and Interior to address trafficking. The government cooperated with Interpol on law enforcement activities.

The Ministry of Labor performed regular worksite inspections, responded to specific complaints, and maintained offices in each region and throughout the Santiago Metropolitan Region to identify potentially abusive situations and inform workers of their legal rights. The Public Ministry trained hundreds of law enforcement agents to recognize and investigate potential trafficking and trained prosecutors to prosecute cases more effectively. SERNAM raised trafficking awareness and provided information on victim's rights and the prosecution of traffickers to 100 officials and 160 civic activists in the border cities of Iquique and Arica.

The government made substantial efforts to assist trafficking victims during the year. Child victims trafficked into sexual exploitation received counseling, psychological and health care, and educational courses in NGO-operated centers for abused and exploited children. The government gave two million dollars (1.04 billion pesos) to 16 NGOs that implement victim-assistance programs in 12 different districts. Police officials who identified child trafficking victims referred them to family courts for placement in protective custody with foster families, relatives, or shelters and put victims in contact with NGOs.

SENAME worked with 75 local offices, with international organizations, including the International Organization for Migration, and with NGOs to ensure that minors involved in possible trafficking situations were not returned to abusive or high-risk situations. The government also worked with Bolivian and Argentine authorities to coordinate the safe repatriation of foreign victims. 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 government had no residence visa program for foreign trafficking victims; however, at least one victim was granted temporary residence to avoid returning her to potential re-victimization in her home country.

#### Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities, but such persons suffered forms of de facto discrimination. The law mandates access to buildings for persons with disabilities, but a Ministry of Housing and Urban Planning study based on a 2002-03 census showed that 70 percent of the buildings in the country designated as public or multiuse failed to meet that standard. An improved public transportation system in Santiago provided wheelchair access on major "trunk" routes. Some local "feeder" routes also provided low-rise buses with access ramps. Subway lines in the Santiago metropolitan area provided limited access for persons with disabilities. Public transport outside of Santiago was problematic.

In April 2005 the government released its First National Study of Disability, which revealed that twice as many persons with disabilities were in the lower socioeconomic brackets as in the middle and upper brackets. Approximately 100,000 persons with disabilities under the age of 27 did not receive any special care or education.

#### Indigenous People

The 2002 census recorded approximately 692,000 self-identified persons of indigenous origin (5 percent of the total population). The Mapuches, from the south, accounted for approximately 85 percent of this number. There were also small populations of Aymara, Atacameno, Rapa Nui, and Kawaskhar in other parts of the country.

The law gives indigenous people a voice in decisions affecting their lands, cultures, and traditions and provides for bilingual education in schools with indigenous populations. Approximately one-half 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 ability of indigenous people to participate 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. A 2003 Ministry of Planning survey reported that indigenous people earned 26 percent less than nonindigenous citizens for similar work.

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.

In 2005 CONADI regularized the property titles to approximately 173,000 acres of land that were restored to 300 Aymara families in the north. However, some observers criticized a lack of transparency in CONADI's land restoration processes and favoritism of the Mapuche over other indigenous groups.

There were isolated instances of violent confrontations between indigenous Mapuche groups and landowners, logging companies, and local government authorities in the southern part of the country. The actions took the form of protests and, occasionally, instances of rock throwing, land occupations, and burning of crops or buildings. Many of these actions were initiated by the Coordinadora Arauco Malleco (CAM), an indigenous group that has been accused of terrorist acts.

Three CAM-related Mapuches and a non-indigenous sympathizer remained imprisoned in a 2001 arson case in which antiterrorism penalties

were applied. The four initiated a hunger strike in March, demanding the terrorism convictions be voided to allow their release on parole. In April the court acquitted two other individuals of all charges, criminal and terrorist, in the same case. In September the Senate rejected a proposed law to allow the release of the four imprisoned on terrorist charges. Government-sponsored legislation which would clarify the application of the antiterrorism law remained pending at year's end.

The government did not act on a UN special rapporteur's 2003 recommendation that there be a judicial review of cases affecting Mapuche leaders. The government has not applied the antiterrorism law in Mapuche-related prosecutions since 2002.

The Ministry of Education provided a package of financial aid consisting of 1,200 scholarships for indigenous elementary and high school students in the Araucania Region during 2005. The government also implemented the Indigenous Scholarship Program that benefited 36,000 low-income indigenous elementary, high school, and college students with good academic performances.

## Section 6 Worker Rights

### a. The Right of Association

Workers have the right to form and join unions without prior authorization, and approximately 10 percent of the total work force (estimated at 5.9 million) was unionized in more than 16,000 unions. Police and military personnel may not organize collectively. Members of unions were free to withdraw from union membership. The law prohibits closed union shops.

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

The law allows unions to conduct their activities without interference, and the government protected this right in practice. Temporary workers--those in agriculture and construction as well as port workers and entertainers--may form unions, but their right to collective bargaining 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.

While employees in the private sector have the right to strike, the government regulated this right, and there were some restrictions. The law permits replacement of striking workers, subject to the payment of a cash penalty that is distributed among the strikers.

Public employees do not enjoy the right to strike, although government teachers, municipal and health workers, and other government employees have gone on strike in the past. The law proscribes employees of 30 companies--largely providers of such essential services as water and electricity--from striking. It stipulates compulsory arbitration to resolve disputes in these companies. There was no provision for compulsory arbitration in the private sector. Strikes by agricultural workers during the harvest season were prohibited. Employers must show cause and pay severance benefits if they dismiss striking workers.

Labor laws applied in the duty-free zones; there are no export processing zones.

### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. The Labor Code does not specifically prohibit forced or compulsory labor by children, and child prostitution remained a problem (see section 5).

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

The law restricts child labor, but it was a problem in the informal economy. 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; 15-year-old children may perform only light work that does not require hard physical labor or constitute a threat to health and childhood development. Additional provisions in the law protect workers under age 18 by restricting the types of work open to them (for example, they may not work in nightclubs) and by establishing special conditions of work (they may not work more than eight hours in a day). The minimum age to work in an underground mine is 21; special regulations govern the ability of 18- to 21-year-olds to work at other types of mining sites.

Ministry of Labor inspectors enforced these regulations, and while compliance was good in the formal economy, many children were employed in the informal economy. From January through November, the Ministry of Labor imposed some form of sanctions in 93 cases involving violations of child labor laws. There were reports that children were trafficked (see section 5). A 2004 survey by the Ministry of Labor and the International Labor Organization reported that in 2003 approximately 200,000 children between the ages of five and 17 worked, and 3 percent of all children and adolescents worked under unacceptable conditions. Among working children, those between the ages of five and 14 worked an average of 18.5 hours a week, and adolescents worked an average of 39.5 hours.

In August 2005 SENAME released a report indicating that, as of September 2004, there were 1,123 cases of children and adolescents involved in the worst forms of child labor. Of this number, approximately 68 percent were boys; 75 percent were 15 years or older; and 66 percent did not attend school. Fifty-eight percent of the individuals were involved in hazardous activities such as mining or working with chemicals or toxins, 24 percent in commercial sexual exploitation, and 14 percent in illegal activities.

The government devoted adequate resources and oversight to child labor policies. SENAME, in coordination with labor inspectors, has a system for identifying and assisting children in abusive or dangerous situations. The Ministry of Labor convened regular meetings of a

tripartite group (business-labor-government) to monitor progress in eradicating child labor. SENAME operated rehabilitation and reinsertion programs in 75 municipalities for exploited child workers. SENAME also implemented public educational programs to create awareness about child labor and its worst forms.

e. Acceptable Conditions of Work

The minimum wage is set by law and is subject to adjustment annually. A tripartite committee comprising 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 6 percent to approximately \$255 a month (135,000 pesos). 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 75 percent of that for other occupations (see section 5). The Labor Directorate, under the Ministry of Labor, was responsible for effectively enforcing minimum wage and other labor laws and regulations.

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. All workers enjoy 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 Chilean Safety Association determine conditions that endanger their health or safety exist. Authorities effectively enforced the standards and frequently imposed fines for workplace violations.