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Chile

Country Reports on Human Rights Practices - [2005](#)

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Chile is a multiparty democracy with a population of approximately 16 million. In 2000 voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. In presidential elections on December 11, Michelle Bachelet, a candidate from the Socialist Party, itself a part of the Concertacion coalition, and Alianza candidate Sebastian Pinera emerged as the top two vote-getters and moved on to a run-off election scheduled for January 15, 2006. Voters also elected 20 of the 38 senators and all 120 members of the Chamber of Deputies on December 11 in elections generally considered free and fair. Civilian authorities generally maintained effective control of the security forces

The government generally respected the human rights of its citizens. The following human rights problems were reported:

- isolated reports of excessive use of force and mistreatment by police forces and physical abuse in jails and prisons
- substandard prison conditions
- failure to advise detainees promptly of charges against them and to grant them a timely hearing
- domestic violence against women and children
- trafficking in persons to, from, and within the country
- marginalization of some indigenous people
- child labor in the informal economy

The judiciary convicted and sentenced several former officials for human rights abuses committed during the 1973-90 military regime. In September constitutional reforms took effect that removed certain limits on popular civilian rule (such as non-elected senators) and eliminated the offense of defamation against public persons and institutions.

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.

A number of cases from previous years, in which the police were accused of unlawful killings due to excessive use of force or mistreatment of prisoners in custody, remained under investigation or pending resolution of appeals.

On June 9, Rancagua appeals court judge Raul Mera reopened the case of Raul Pellegrini and Cecilia Magni, two activists killed in 1988. The case remained pending at year's end.

In March 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.

In September the Supreme Court upheld an appeals court ruling dropping charges against former President Augusto Pinochet in the "Operation Condor" case, citing mental health reasons and a 2001 Supreme Court ruling that Pinochet was not mentally fit to stand trial in the "Caravan of Death" case. At year's end Pinochet faced human rights charges in the "Operation Colombo" case and for financial dealings involving concealed assets, tax evasion, possible kickbacks, and misuse of public funds.

Judge Alejandro Solis continued an investigation of the 1974 car bomb assassination in Buenos Aires of former army commander Carlos Prats. Seven former DINA agents, including former DINA director Manuel Contreras, and one civilian have been indicted in the case. In March the Santiago Court of Appeals rejected Judge Solis's request to lift former President Pinochet's immunity in the case, and in April ex-DINA agent Reginaldo Valdes Alarcon was indicted as an accomplice for his involvement. 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 American citizen Charles Horman, remained pending at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

Courts prosecuted a number of 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.

In September Judge Jorge Zepeda sentenced two former DINA directors, Manuel Contreras and Marcelo Moren Brito, to seven years' imprisonment as authors of the 1974 kidnapping of former manager of Cobrechiqui (a nationalized copper company) David Silberman Gurovich. Judge Zepeda also ordered the government to pay \$2 million (1.04 billion pesos) to Silberman's widow, children, and siblings.

The judiciary continued to investigate human rights abuses committed during the former military government and, in several cases, passed sentence on those found guilty. According to the Vicariate of Solidarity (a foundation linked to the Archdiocese of Santiago), in 2004 there were 373 former officials (mostly military officials but including some civilians) charged and under investigation for human rights violations against 948 victims. The press reported that in 2004, 46 former security force members and 19 civilians were convicted of human rights violations and sentenced to prison terms; 24 of these individuals have been released after completing their sentences.

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. On March 10, settlement founder Paul Schaefer was apprehended in Argentina and returned to the country. Schaefer was subsequently indicted for his involvement in the kidnapping of four dissidents under the former military regime. 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) still 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. Cases of military and police abuse typically were processed in military rather than civilian courts (see section 1.e.).

On July 19, three officers in the Gendarmeria were indicted in a court of first instance in Colinas, Santiago, for a 2002 incident in which two prisoners suffered hearing loss due to alleged mistreatment at a high-security cellblock in the Colinas II prison. No further information was available.

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. On October 5, eight hooded individuals attacked a property owner and his wife, tying them up and burning their residence to the ground. Although the attackers have not been identified, the farm where the attack occurred had been the target of indigenous protests and occupations over a four-year period. In November eight armed individuals held employees and their families at gunpoint while burning two cabins and an automobile at a Mininco forestry company site. Although the attackers were not identified, they left pamphlets from the Coordinadora Arauco Malleco (CAM), an indigenous group that has been accused of terrorist acts in previous land disputes.

On June 22, a judge upheld the acquittal of four CAM-related Mapuches and a nonindigenous sympathizer charged with illicit "terrorist association"; in November the Supreme Court denied the public prosecutor's appeal of the Temuco court's decision. Eight others refused to appear for trial and remained at large and sought by authorities at year's end.

Prison and Detention Center Conditions

Prison conditions generally were poor. Prisons often were overcrowded and antiquated, with substandard sanitary conditions. There were approximately 38 thousand prisoners in prisons designed to hold 22 thousand inmates. A 2004 Diego Portales University School of Law study on prison conditions stated that, despite improvements, prison facilities 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. The first of 10 newly constructed prisons intended to improve conditions opened in Rancagua in November.

In isolated instances prisoners died due to lack of clear prison procedures and insufficient medical resources in the prisons. In January the

NGO Friends and Family of Prisoners reported that 26 prisoners died of various preventable causes in 2004: 13 of the deaths were due to violence between prisoners, 3 were suicides, 3 resulted from drug overdoses, and 1 was attributed to HIV-related complications. The remaining six deaths (four at Colina II prison) were due to unknown causes, with one occurring in solitary confinement.

There was no further information regarding the investigations of the 2003 fire at the El Manzano facility, which caused nine fatalities.

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 and prisoners with HIV/AIDS and mental disabilities who allegedly failed to receive adequate medical attention.

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 thousand-member Carabinero force, under operational control of the Ministry of Defense and the Ministry of Interior, has primary responsibility for public order, safety, traffic control, and border security. The civilian PICH, comprising approximately 3,500 detectives, is responsible for criminal investigations and immigration control. The PICH, while under the operational jurisdiction of the Ministry of Interior, also receive guidance from the prosecutor or judge responsible in a criminal investigation. The Gendarmeria, under jurisdiction of the Ministry of Justice, operates the national prison system. The police force had an extremely 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 courts must be advised within 48 hours of the arrest and the detainee placed 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, under judicial reforms, which took final effect in June, performance improved and over 80 percent of cases were resolved within the designated period. The law allows civilian and military courts to order detention for up to 5 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 prohibits physical abuse by police against detained persons (see section 1.c.).

There were no reports of political detainees.

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. Public Defender's Offices in all 12 regions and the Santiago Metropolitan Region provide professional legal counsel to anyone seeking such assistance. The June implementation of the judicial reform law in the Santiago Metropolitan Region concluded a six-year transformation of the national justice system from an inquisitorial to an adversarial model. The judicial reform law provides that national and regional prosecutors investigate crimes, formulate charges, and prosecute cases, leaving judges the narrower function of weighing the merits of evidence presented to them. Three-judge panels form the court of first instance, the process is oral and adversarial, and trials are public. Court records, rulings, and findings were generally accessible to the public.

The law provides for the right to legal counsel, and the Public Defender's Office provides professional legal counsel. Defendants have a right

of appeal. 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.

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 sometimes has 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 accused of terrorist acts and persons arrested during demonstrations for assaulting a police officer also were 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

There were no reports of political prisoners, 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. On July 19, the Senate approved a law allowing prisoners convicted on terrorism charges to apply for parole; 32 prisoners were eligible to apply under the provisions.

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 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 and individuals can also be sued for libel. In August Congress passed a law abolishing the penalty for questioning the honor of public figures (*desacato*). In September constitutional reforms eliminated the offense of defamation against public persons and institutions but created penalties for invading the privacy of private persons and for "insults against personal honor."

The law prohibits the surreptitious taping or recording of private conversations. In July authorities sentenced Sebastian Rodriguez to 3 years in prison and fined him \$5,770 (3 million pesos) for covertly videotaping a conversation with the judge in a high-profile pedophilia case and for attempted extortion. A producer and 3 journalists for ChileVision TV, which broadcast the footage in 2003, were given 61-day suspended sentences and fined \$2,885 (1.5 million pesos) for their role in the illegal taping. A senator's July 2004 civil suit against the Channel 13 television station and several individuals for airing a television interview naming him in a sexual abuse case was dropped after Channel 13 issued a public apology and paid an undisclosed monetary settlement.

Two major media groups controlled most of the print media, which largely were independent of the government. 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 have sexually explicit scenes may be shown only after 10 p.m. when "family viewing hours" end. The CNT occasionally levied fines.

There were no government restrictions on the Internet or academic freedom.

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.

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.

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 the Supreme Court sustained a government challenge to the registration of the Unification Church as a religious nonprofit organization. The Unification Church continued to operate under a more limited private nonprofit status and planned to appeal the ruling to the Inter-American Court on Human Rights.

Societal Abuses and Discrimination

There were no reports of societal violence, harassment, or discrimination, including anti-Semitic acts, against members of religious groups. The Jewish community was estimated at approximately 21 thousand persons.

In June after a television program exposed the existence of neo-Nazi groups in Chile engaging in violence and criminal activities against immigrants, homosexuals, punk rockers, and anarchists, the Human Rights Committee of the Chamber of Deputies presented a bill to initiate a congressional investigation of such movements. At year's end the bill remained pending in the chamber.

A quarterly neo-Nazi tabloid newspaper published several editions in Temuco, a regional capital. Government authorities suspended publication in September, and no further editions were published.

For a more detailed discussion, see the [2005 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. In 2004, 568 persons residing in the country had recognized refugee status. The government also provided temporary protection to 85 individuals who may not qualify 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 Office of the UN High Commissioner for Refugees (UNHCR) and other organizations. The government cooperated with the office of 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 2000 voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. Lagos is a member of the center-left Concertacion coalition, which includes his Socialist Party, the Christian Democratic Party, the Party for Democracy (of which Lagos is also a member), and the Radical Social Democrat Party. On December 11, Concertacion candidate Michelle Bachelet and Alianza opposition candidate Sebastian Pinera emerged as the top two vote-getters in the first round of the presidential elections. Since no candidate won more than 50 percent of the vote, Bachelet and Pinera moved on to a run-off election on January 15, 2006. Voters also elected 20 of the 38 Senators and all 120 members of the Chamber of Deputies on December 11 in elections generally considered free and fair. The new president and congress will assume office on March 11, 2006.

In August the congress ratified constitutional reforms abolishing provisions of the 1980 constitution (promulgated by the Pinochet regime) that limited the president's right to remove the commanders-in-chief of the three armed services and the Carabineros. The reforms also eliminated all nonelected senatorial posts effective March 2006, reduced the presidential term from six to four years with no consecutive terms, and made the National Security Council a purely advisory body. The new provisions went into effect in September.

There were 15 women in the 120-seat Chamber of Deputies, 2 women in the 48-seat Senate, and 3 women in the 16-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.

Government Corruption and Transparency

Transparency International's annual corruption index recorded that the public perceived the country as relatively free of corruption. In June the Rancagua appeals court upheld the 2004 convictions of President Lagos' former undersecretary of transportation, three deputies from the government coalition, a former chief of cabinet from the Ministry of Public Works, and three businessmen for the crimes of bribery and subornation. A judicial investigation into allegations of Ministry of Public Works involvement in a broader kickback scheme continued 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 May the NGO Participa released a study (based on 140 requests made by 7 individuals to ministries, municipalities, courts, and businesses providing public services) that found that national and local government agencies failed to respond to direct information requests in 69 percent of the cases. In the remaining cases, 14 percent of the responses were delayed, incomplete, or otherwise deficient.

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.

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; while the government enforced this prohibition, such discrimination occurred in practice.

Women

Domestic violence against women was a serious problem. A 2004 National Women's Service (SERNAM) study reported that 50 percent of married women have suffered spousal abuse; 34 percent reported having suffered physical violence and 16 percent psychological abuse. From 2002 to 2003, approximately 91 percent of the calls the Carabineros received regarding domestic violence related to aggression against women; Carabineros made arrests in 88 percent of their responses to domestic disputes.

The courts frequently order counseling for those involved in intrafamily violence. At year's end there were 17 government and 8 private centers to attend to victims of intrafamily violence. During the year, the SERNAM together with NGOs conducted 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 5 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. In 2003 police received reports of 1,658 cases of rape. This number did not include other forms of sexual violence or abuse. Experts believed that a majority of rape cases went unreported.

The Ministry of Justice and the Investigations Police 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 thousand 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 3 to 20 years in prison and a \$1 thousand (520 thousand 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. In January congress passed a law against sexual harassment that provides protection and financial compensation to victims and penalizes harassment by employers or co-workers. The Labor Directorate reported that during the first 120 days of the new law, there were 95 complaints--87 made by women and 7 by men. Nearly half of the complaints were resolved quickly. In the most serious case, the accused was dismissed and fined \$1,150 (600 thousand pesos).

Women enjoy the same legal rights as men, including rights under family law and property law. The 2004 National Socio-Economic Survey suggested that the overall gender income gap remained at 30 percent. The income gap widened to 40 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.

Children

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

Education is universal, compulsory, and free from 1st 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. Three-quarters of the population had completed primary education (8 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 medical 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 7 and 10 had suffered some type of aggression against them or their belongings either inside or outside their homes.

In the first 6 months of 2003 (the most recent period for which statistics were available), the National Minors Service (SENAME) handled 28,642 cases of mistreated children; 4,158 of these cases involved sexual abuse or grave physical harm. SENAME, the Carabineros and PICH worked together and with schools and NGOs to identify children in abusive situations. Abused children and their families were provided counseling and other social services; efforts were made to 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 reports that persons were trafficked to, from, and within the country.

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 thousand pesos). Sanctions are increased in a number of circumstances, including cases in which the victim is a minor; in which 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. Statistics on prosecutions and convictions were not available.

While there is no designated lead agency on trafficking in persons, the PICH sex crimes and cybercrime units worked with the Ministries of Justice and Interior to address trafficking. The government also cooperated with Interpol on law enforcement activities.

There were no current statistics available on the extent of trafficking. The head of the PICH Sexual Crimes Unit stated that there were no reported cases of trafficking in 2004. A credible 2003 study concluded that more than 3,700 children and adolescents--the vast majority of whom lived at home or with close relatives--had been the victims of commercial sexual exploitation in 2002-03.

Within the country victims reportedly were trafficked from rural areas to such urban areas as Santiago, Iquique, and Valparaiso. Law enforcement authorities stated that small numbers of victims were trafficked to neighboring countries (Argentina, Peru, and Bolivia), the United States, Europe, and Asia. Victims reportedly entered the country from Peru, Argentina, Colombia, and Bolivia, although it was difficult to distinguish trafficked persons 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, arguing to the parents that they were giving the child an opportunity for a better life. Men from less-affluent rural areas may be recruited into abusive labor situations in deep-sea fishing or ranching operations.

Cross-border trafficking was limited. There was no information available regarding traffickers or the methods they used to recruit or transport victims.

SENAME works with its 75 local offices and with NGOs to ensure that minors involved in possible trafficking situations were not returned to abusive or high-risk situations. The Ministry of Labor performed regular worksite inspections, responded to specific complaints, and maintained offices in each region and throughout the metropolitan area to identify potentially abusive situations and inform workers of their legal rights.

Many of the government services provided for victims of sexual violence in general, such as safe houses and counseling, are also available to trafficking victims. The government worked closely with other countries to identify and safely return potential trafficking victims.

SENAME, the ministries of government and health, and other government agencies formed the Protect Network, which conducted general public awareness and education campaigns to prevent sexual violence and abuse, including the commercial sexual exploitation of minors.

Nearly 80 percent of SENAME's budget supported NGO programs, particularly those that worked with street children. Organizations such as Mother's Centers and RAICES also offered support programs to prevent trafficking.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities, but such persons still suffered some 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 multi-use 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.

Indigenous People

The 2002 census recorded approximately 692 thousand self-identified people of indigenous origin (4.6 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 eventual bilingual education in schools with indigenous populations. Approximately one-half the population that identifies itself as indigenous 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, which included directly elected indigenous representatives, advised and directed government programs to assist the economic development of indigenous people.

There were land occupations and other acts of violence by Mapuche groups, and the authorities tried many of those charged with such attacks under antiterrorist legislation (see section 1.c.). A 2004 Human Rights Watch report criticized the government for prejudice in applying the Anti-Terrorist Law to Mapuche activists. A 2003 report by the UN Special Rapporteur for the Human Rights and Fundamental Liberties of Indigenous People described the economic and social marginalization of indigenous communities and the criminalization of indigenous social protest movements by means of the application of the Anti-Terrorist Law. The rapporteur recommended the judicial review of cases affecting Mapuche leaders, but the government did not act on the recommendations.

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 over 16 thousand 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 was 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. Fifteen-year-olds only may perform light work not requiring hard physical labor or constituting 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 8 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. During the year the Ministry of Labor recorded 36 cases involving reported violations of child labor laws in the informal economy, 33 of which were under investigation at year's end. 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 thousand children between the ages of 5 and 17 worked; 3 percent of all children and adolescents worked under unacceptable conditions. Among working children, those between the ages of 5 and 14 worked an average of 18.5 hours a week, and adolescents worked an average of 39.5 hours.

In August 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. Thirty-seven percent of the individuals were involved in hazardous activities such as mining; 24 percent in commercial sexual exploitation; 21 percent in dangerous jobs such as working with chemicals or toxins; 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. The minimum wage at year's end was approximately \$245 a month (127,500 pesos), a 1 percent nominal increase from the previous year. 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 6 days or 45 hours. The maximum workday length is 10 hours (including 2 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. Workers who remove themselves from dangerous situations have their employment protected by law 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.

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