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U.S. Department of State

Chile Country Report on Human Rights Practices for 1997

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CHILE

Chile is a multiparty democracy with a constitution that provides for a strong executive, a bicameral legislature, and an independent judiciary. Approved by referendum in 1980 and amended in 1989, the Constitution was written under the former military government and establishes institutional limits on popular rule. President Eduardo Frei, a Christian Democrat, began his 6-year term in 1994. The National Congress comprises 120 deputies and 47 senators. The government coalition of six parties holds a majority in the lower house. An opposition coalition, together with several independent and eight appointed senators, controls the upper chamber. Under the Constitution, former president General Augusto Pinochet must retire from the army by March 11, 1998. He may then assume his lifetime seat in the Senate, which he has announced he would do. General Pinochet's appointees continue to influence the constitutionally independent judicial branch. However, turnover in the courts has led to a significant diminution of that influence.

The armed forces are constitutionally subordinate to the President through an appointed Minister of Defense but enjoy a large degree of legal autonomy. Most notably, the President must have the concurrence of the National Security Council, which comprises military and civilian officials, to remove service chiefs. The Carabineros (the uniformed national police) have primary responsibility for public order and safety and border security. The civilian Investigations Police are responsible for criminal investigations and immigration control. Both organizations--although formally under the jurisdiction of the Ministry of Defense, which determines their budgets--are under operational control of the Ministry of Interior. Some alleged perpetrators of human rights abuses during the military regime remain on active duty in the army. The security forces committed a number of human rights abuses.

The export-led, free-market economy experienced its 14th consecutive year of expansion. The most important export remained copper; salmon, forestry products, fresh fruit, fish meal, and manufactured goods were also significant sources of foreign exchange. Gross domestic product grew at a 7.2 percent rate, unemployment increased slightly to 6.5 percent, and inflation fell to 6.6 percent. From 1987 to 1997, the percentage of the population living below the poverty line decreased from 45 to 23 percent, according to a government study released in July. Annual per capita gross domestic product rose to \$5,000 in 1996.

The Government generally respected its citizens' human rights. However, there continued to be some problem areas. The most serious cases involved allegations of torture, brutality, and use of excessive force by the police. There continued to be reports of physical abuse in jails and prisons. Discrimination and violence against women and violence against children are problems. Many indigenous people remain marginalized.

Almost all other human rights concerns are related to abuses during the former military government, primarily between 1973 and 1978. Efforts to bring abusers to justice in cases dating back to the early years of the military government are limited by the conflicting demands for justice and for national reconciliation. Military authorities continued to resist disclosing abuses from the past. In particular, the courts continued to struggle with the application of the 1978 Amnesty Law to cases that occurred during the first 5 years of military rule. Over the past 3 years, the Government and opposition parties debated various proposals that would effectively close all cases covered by the Amnesty Law that are still under judicial investigation. These efforts have largely stalled, and the judicial system continues to investigate and close pending human rights cases.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political killings.

On Chiloe Island, the authorities suspended two Carabineros from duty pending a determination of their role in the September 14 beating death of Ramon Ruiz Mansilla.

Pedro Soto Tapia, a 19-year-old military conscript, disappeared from his regiment at San Felipe on December 15, 1996, after having repeatedly written letters to his family describing mistreatment at the hands of his superior officers. On March 15, his remains were found in a cave in San Felipe, accompanied by what was purportedly a suicide note. The Valparaiso Court of Appeals closed the case on August 18 without the cause or circumstances of Soto's death having been established. In September Soto's mother succeeded in having the case reopened; the family's attorneys, assisted by the Committee for the Defense of People's Rights (CODEPU), seek to prove that Soto's death was a homicide.

The Government is seeking the extradition from Switzerland of a terrorist who escaped from prison in December 1996; he was convicted of killing a police officer (see Section 1.c.)

In January the family of Carmelo Soria Espinoza, a Spanish employee of the United Nations who was kidnaped and murdered in 1976, announced its intention to pursue a denial of justice claim before the Inter-American Commission on Human Rights (IACHR). (Other denial of justice claims involving execution cases also are pending – see Section 1.b.) The Chilean Supreme Court had suspended the

Soria murder case in June 1996 by invoking Chile's amnesty law; subsequent impeachment motions against four Supreme Court justices failed in the lower house of Congress. Proceedings against General Augusto Pinochet continue to move forward in a Spanish court for his alleged responsibility in Soria's death as well as those of the priests Joan Alsina and Antonio Llido. In November President Frei decided not to approve the promotion to brigadier general of former intelligence officer Jaime Lepe Orellana, who was reportedly involved in the murder of Soria.

During the year, a Spanish court began collecting witnesses' statements and documentary evidence attesting to other human rights violations committed by Chilean officials against Spanish citizens between 1973 and 1990, including crimes allegedly ordered by then-President Pinochet. Regardless of whether a person benefits from amnesty provisions in Chile, the court seeks to try in Spain those former officials who are suspected of having murdered, tortured, or to be responsible for the disappearance of Spanish citizens. However, Chile does not extradite its nationals.

Former Chilean intelligence agent Enrique Arancibia Clavel continued to be detained in Argentina for his alleged involvement in the 1974 assassination in Buenos Aires of former Chilean army chief Carlos Prats and his wife Sofia Cuthbert. Prats was the army commander under President Salvador Allende and was succeeded by General Pinochet in August 1973. Prats left Chile for Argentina several days after the coup against Allende. The case was reopened in 1992 as a result of a petition filed by the Prats family containing new evidence. The Government of Chile has agreed to be a coplaintiff in the Argentine trial of Arancibia.

b. Disappearance

There were no reports of politically motivated disappearances.

The major human rights controversy involved past disappearances and efforts by political forces and the Government to reinterpret the 1978 Amnesty Law in such a way as to achieve both justice and national reconciliation. As interpreted under the so-called Aylwin Doctrine (named after former president Patricio Aylwin), the courts should not close a case involving a disappearance until either the body is found or credible evidence is provided to indicate that an individual is dead. This could affect up to 542 cases, which cover about 1,100 persons still classified as "detained or missing" from the early years of the military regime. However, application of the Aylwin Doctrine has been uneven, as some courts continue the previous practice of applying the 1978 amnesty to disappearances without conducting an investigation to identify the perpetrators. According to an Amnesty International report released in June, civilian and military courts closed 21 disappearance cases in 1996. During the first half of 1997, the courts closed 8 cases through application of the Amnesty Law; kept more than 150 cases active; and temporarily closed approximately 350 cases, subject to being reopened.

In July Amnesty International reported death threats the previous month against Mariana Guzman Nunez, Sola Sierra, and Viviana Diaz Caro of the nongovernmental human rights group Association of Relatives of Disappeared Prisoners; Ms. Sierra is the Association's President.

The Social Aid Foundation of Christian Churches (FASIC), the CODEPU, and other human rights organizations have a total of 31 denial of justice cases pending before the IACHR regarding previously closed disappearance and execution cases. Eight cases have been filed before the United Nations Committee on Human Rights. In March the IACHR ruled that four previously closed disappearance cases that had been appealed to the Commission should be reopened.

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

The Constitution forbids "the use of illegal pressure" on detainees, but CODEPU has received reports of instances of mistreatment and abuse by both the Carabineros and the Investigations Police. When requested by other human rights organizations or family members, CODEPU lawyers visit detainees during their interrogation (see Section I.d.) and represent many suspected terrorists in court. The CODEPU continues to investigate alleged use of excessive force against detainees. The Minister of Interior normally asks the courts to conduct independent investigations of credible complaints of police abuse, but such investigations rarely result in arrests, due in part to the reluctance of judges to pursue the issue vigorously. The courts convicted and sentenced only four police officials for committing acts of violence against detainees.

According to a report released by Amnesty International in June, governmental organizations notified the national police of more than 20 cases of torture and maltreatment by the police in 1996.

According to a special 1996 United Nations report, while considerable progress had been made since the return to civilian rule in 1990, acts of torture still continue. A 1996 study by Diego Portales University indicated that 71 percent of detainees interrogated had suffered some form of mistreatment. U.N. Special Rapporteur on Torture Nigel Rodley concluded that, although abuses are not systemic, the Government has taken insufficient action to ensure that the activities of the national police are in accord with the law. He recommended that the national police be entirely subordinated to the Ministry of Interior.

In August attorneys for Carmen Gloria Quintana appealed efforts by the Government to set aside an award of approximately \$600,000 in compensation that the IACHR had recommended for Quintana in 1988. Army Captain Pedro Fernandez Dittus set fire to Quintana and her companion Rodrigo Rojas Denegri while they were participating in a protest against the military regime in 1986. Rojas died 4 days later, while Quintana survived with severe and disfiguring injuries.

Prisons are overcrowded and antiquated, but the conditions are not life threatening. Food meets minimal nutritional needs, and prisoners may supplement the diet by buying food. Those with sufficient funds can often rent space in a better wing of the prison. Prison guards have been accused of using excessive force to stop attempted prison breaks. Although most reports state that the guards generally behave responsibly and do not mistreat prisoners, several prisoners have complained of beatings. There are about 300 minors in adult prisons (see Section 5).

The maximum security prison houses approximately 75 prisoners, most of them charged with or convicted of terrorism. Prisoners continue to complain that strict security measures, prohibition of visitors, hidden cameras, and rigid regulations violate their rights. In 1996 the president of the Santiago Court of Appeals confirmed the existence of listening devices in prison cells. In response, the Minister of Justice confirmed that microphones were present but said that they were never used.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of suspected terrorists for up to 10 days. 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. The law does not permit a judge to deny such access; police authorities generally observe these requirements.

As of September, 5 percent of the general prison population of approximately 24,000 were under

investigation but not charged with a crime; 44 percent were charged with an offense and were awaiting trial or had been convicted and were awaiting sentencing; and 51 percent were serving sentences.

The police have the authority to make arrests based on suspicion, which is applied particularly to youths in high crime areas late at night. In practice, many detainees are not promptly advised of charges against them, nor are they granted a speedy hearing before a judge. The Constitution provides for the right to legal counsel, but this is a reality only for those who can afford to pay. The poor, who account for the majority of cases, may be represented by law students doing practical training (who are often overworked) or on occasion by a court-appointed lawyer. Arrest procedures do not require police to allow detainees to telephone relatives or a lawyer. The Constitution allows judges to set bail.

Law enforcement authorities more frequently informed foreign embassies when their nationals were arrested, but occasional lapses still occurred.

There were no cases of forced exile.

e. Denial of Fair Public Trial

The Constitution calls for a judicial system independent of the other branches of government. Although the judiciary, and particularly the Supreme Court, has been dominated by appointees of the former military regime, the passage of time is changing this legacy.

Cases decided in the lower courts can be referred to appeals courts and ultimately to the Supreme Court. Criminal court judges are appointed for life; the President makes appointments to the Supreme Court and the appeals courts from lists prepared by the Supreme Court. Of the 16 justices on the Supreme Court, 7 have been appointed since the end of the military regime. The Supreme Court continues to work with the other branches of government on broad judicial reform.

In September President Frei signed the Judicial Reform Law, creating an Attorney General and related ministry that are expected to be in full operation by 2003. The new law provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges and magistrates the narrower function of judging the merits of evidence presented before them.

The jurisdiction of military tribunals is limited to cases involving military personnel. If formal charges are filed in civilian courts against a member of the military, including the national police, the military prosecutor asks for, and the Supreme Court normally grants, military jurisdiction. This is of particular consequence in the human rights cases dating from 1973 to 1978, the period covered by the 1978 Amnesty Law. In addition, military courts have the authority to charge and try civilians for defamation of military personnel and for sedition, but their rulings can be appealed to the Supreme Court.

Based on the Napoleonic Code, the judicial system does not provide for trial by jury, nor does it assume innocence until proven otherwise. Criminal proceedings are inquisitorial rather than adversarial. The Constitution provides for the right to legal counsel, but the poor do not always get effective legal representation (see Section I.d.).

Four ringleaders of the terrorist Manuel Rodriguez Patriotic Front (FPMR) broke out of Santiago's maximum-security prison on December 30, 1996, in an elaborately orchestrated escape via helicopter. In early September, one of the escapees, Patricio Ortiz Montenegro, requested political asylum in Switzerland, claiming he could not obtain justice in Chile. (In June 1995, a military court convicted Ortiz of the 1991 murder of a police officer and sentenced him to a 10-year prison term.) Chilean

authorities are seeking Ortiz' extradition from Switzerland, where he was detained at year's end.

There were no reports of political prisoners, although among the approximately 75 inmates in Santiago's maximum-security prison, those who have been convicted of terrorist acts routinely claim to be political prisoners.

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

The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions. A 1995 privacy law bars obtaining information by undisclosed taping, telephone intercepts, and other surreptitious means, as well as the dissemination of such information, except by judicial order in narcotics-related cases.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the authorities generally respect these rights in practice. The press maintains its independence, criticizes the Government, and covers issues sensitive to the military, including human rights.

The print and electronic media are largely independent of government control. The State is majority owner of La Nacion newspaper, but it is editorially independent. However, La Nacion's editorial policy rarely disagrees with government policy. The Television Nacional network is state-owned but not under direct government control. It receives no government subsidy and is self-financing through commercial advertising. It is editorially independent and is governed by a board of directors that, although politically appointed, encourages the expression of varied opinions over the network.

It is a criminal offense to besmirch the honor of state institutions and symbols, such as the Congress, the military services, the flag, and the President. Military courts have the authority to charge and try civilians for defamation of military personnel and for sedition, but their rulings can be appealed to the Supreme Court.

In December 1996, Congress passed a privacy law that set penalties for those who infringe on the private and public life of individuals and their families. At the time of the law's passage, journalists argued vigorously that applying it to media reporting would have a chilling effect on freedom of the press. To date, this privacy law has not been applied to the media, although there have been unsuccessful attempts to incorporate similar language and penalties into a draft press law. The proposed legislation was first introduced to Congress by the Aylwin government in July 1993. As introduced, the bill's intent was to codify media rights and to replace the outmoded 1968 Abuses of Publicity Law still in force.

The 1980 Constitution established a Film Classification Council (CCC), with the power of prior censorship. The Council has banned 52 films and nearly 700 videos. In November 1996, the Council lifted its 1989 ban on the film "The Last Temptation of Christ." However, Chile's Future, a conservative organization supported by the Catholic Church, challenged the CCC decision in a court of appeals and obtained a temporary restraining order prohibiting the film's showing. In June the Supreme Court upheld the ban. The authorities subsequently arrested three people in Punta Arenas for organizing a public viewing of the film. The Government expressed disappointment at the Supreme Court's ruling and is attempting to abolish the CCC through constitutional reform.

The National Television Council (CNT), created by legislation in 1989 and supported with government funding, is charged with assuring that television programming "respects the moral and cultural values of the nation." The CNT's principal role is to regulate both broadcast and cable television programming content based on violence and sexual explicitness. Films and other programs judged by the CNT to be excessively violent or to have obscene language or sexually explicit scenes can be shown only after 10 p.m. when the "family viewing hours" end. In practice, the ever-increasing volume of programming makes the CNT's job all but impossible. The CNT issues occasional warnings to networks and sometimes obliges them to postpone the showing of certain films until after 10 p.m. Debate continues over the CNT's role.

The courts rarely prohibit media coverage of cases in progress. In June lower court judge Beatriz Pedrals imposed a 3-month restraining order against media reporting on the investigation of official protection and money laundering against Carlos Mario Leiva. However, the Court of Appeals overturned the restraining order, ruling that the Constitution's protection of freedom of speech superseded the 1968 Abuses of Publicity Law under which the ban was invoked.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government respects them in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. All denominations practice their faiths without restriction. Although church and State are officially separate, the Roman Catholic Church receives official preferential treatment. Chile's 1-2 million Protestants assert that the Government discriminates against them, based upon differing legal status afforded to non-Catholics. They cite the absence of Protestant armed forces chaplains, difficulties for pastors to visit military hospitals, and the predominantly Catholic religious education in public schools. To remedy this situation, the lower house of Congress unanimously approved a bill to afford greater legal equality among all churches, but a Senate committee postponed further discussion on it until the new Congress convenes in March 1998. A 1995 Santiago municipal ordinance making it illegal to cause disturbances in the streets has been interpreted by some evangelical groups as designed to prevent them from proselytizing and preaching in public; however, there were no known cases of the law being enforced in this manner.

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

The Constitution provides for these rights, and the Government generally respects them in practice. For minor children to leave the country, either alone or with only one of their parents, they must have notarized permission from both parents.

The Government cooperates with the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum has not arisen. There were no reports of forced return of persons to a country where they feared persecution.

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

Chile is a constitutional democracy, and citizens have the right to change their government through

periodic elections. There is universal suffrage for citizens 18 years of age and over. The Government still operates under some political restraints that were imposed by the previous regime. Under the 1980 Constitution, various national institutions--including the President, the Supreme Court, and the armed forces-dominated National Security Council--appoint an additional nine senators (beyond those elected) to 8-year terms. The terms of these Senators, appointed by then-President Pinochet, expired in 1997. Nine newly appointed institutional senators are to take their seats in March 1998, as will former President Pinochet. The legislative branch, with the exception of the institutional senators, is freely elected and independent from the executive branch.

The former military government wrote the 1980 Constitution and amended it slightly in 1989 after losing a referendum on whether General Pinochet should stay in office as president. It provides for a strong presidency and a legislative branch with limited powers. In addition, it includes provisions designed to protect the interests of the military and the rightwing political opposition. These provisions include limitations on the President's right to remove military service chiefs, including chief of the army (the position General Pinochet can hold until March 11, 1998); an electoral system that gives the second-place party (or coalition) in each district disproportionate representation in Congress; and the provision for nonelected institutional senators. The Government has pledged to amend these provisions, which it sees as "authoritarian enclaves" left over from the previous regime; the opposition has pledged to fight to retain what it views as important checks and balances in the system of government.

Women have had the right to vote in municipal elections since 1934 and in national elections since 1949 and are active in political life at the grassroots level. Women make up a majority of registered voters and of those who actually cast ballots, but few women are in leadership positions. Fourteen women serve among the 120 deputies, 2 women were in the 46-seat Senate (including one of the appointed Senators) and 3 of 21 cabinet ministers are women. The level of female participation in government is not increasing markedly.

The over 1 million indigenous people have the legal right to participate freely in the political process, although relatively few are politically active. Only one member of Congress is of indigenous descent. The National Corporation for Indigenous Development was created in 1994, and indigenous people directly elected representatives to this body in 1995. It advises and directs government programs that assist the economic development of indigenous people.

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

The Chilean Human Rights Commission, a nongovernmental organization (NGO), is affiliated with the International League of Human Rights and gathers evidence of police abuses. The CODEPU provides legal counsel to those accused of politically related crimes and to victims of human rights abuses. Local NGO's say that the Government cooperates with their efforts to investigate accusations of human rights violations. Many international NGO's also closely follow human rights issues.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equality before the law, but it does not specifically ban discrimination based on race, sex, religion, or social status.

Women

The public is only beginning to appreciate the extent of physical abuse of women. The National

Women's Service (SERNAM), created in 1991 to combat discrimination against women, found in a 1996 study of more than 12,000 reports of domestic violence that 3 years after the Law on Intra-Family Violence went into effect, only one in five accusations resulted in judicial action. The study indicated that spouses or domestic partners were responsible for 88 percent of family violence and that 63 percent of the reports represented physical attacks. The study showed that in nearly three-quarters of reported cases of domestic violence, the accusation led to a positive change in the domestic situation regardless of the judicial outcome. SERNAM also conducted courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities.

The courts may order counseling for those involve in intrafamily violence. In 1996 there were 57,939 civil court cases of domestic violence. In 1994 (latest data available) there were 2,281 reported cases of rape. A 100-year-old law states that if a rapist ask the rape victim to marry him and she accepts, he will not be sentenced for the crime, although it remains on his criminal record. SERNAM is working to have this law abolished.

Legal distinctions between the sexes still exist, despite a 1989 decision to give precedence over national laws to treaties to which Chile is a party. The law permits legal separation but not divorce, so those who wish to remarry must seek annulments. Since annulment implies that a marriage never existed under the law, former spouses are left with little recourse for financial support. Although a recent law created conjugal property as an option in a marriage, some women saw this as a step backward, since the law on separate property (which still exists) gives women the right to one-half their husbands' assets but gives husbands no right to assets of a wife. In the face of heavy opposition from the Catholic Church, the Chamber of Deputies approved a divorce bill in September; the bill was awaiting action in the Senate at year's end.

Another SERNAM study found that the average earnings of female heads of household are only 71 percent of those of male heads of household. Women with no schooling averaged a salary that was 87 percent of that of their male counterparts without schooling, while female heads of household with university training averaged only 57 percent as much as their male contemporaries. The SERNAM has a pilot program providing occupational training and child care in an effort to alleviate this disparity.

Children

The Government provides free education through high school; education is compulsory from first to eighth grade. A 1996 survey by the National Minors Service indicated that sexual abuse of minors occurs but that few cases are reported. A September 1996 United Nations Children's Fund (UNICEF) report stated that 34 percent of children under 12 years of age experience serious physical violence, although only 3.2 percent of the victims of intra-family violence reported to the national police family affairs unit were below the age of 18. A 1994 Law on Intra-Family Violence was designed in part to deal with this problem. According to UNICEF, some form of corporal punishment is used by one or both parents in 62 percent of households. UNICEF estimates that approximately 107,000 children between the ages of 12 and 19 are in the work force (see Section 6.d.).

Investigations of child abuse within Colonia Dignidad, a secretive German-speaking settlement 400 kilometers south of Santiago, received widespread publicity throughout the year. The 34,000-acre enclave inhabited by 350 colonists is dominated by 76-year-old Paul Schafer, who immigrated from Germany in 1961 with 300 followers. After allegations by a number of local teenage boys of sexual abuse at the hands of Schafer, police armed with a search warrant as well as a warrant for Schafer's arrest raided the compound in June, but at year's end had not been able to apprehend him despite continued efforts.

By law juvenile offenders (i.e., those under the age of 18) are segregated from adult prisoners. The Government has reduced the number of minors in adult prisons from 6,630 in 1992 to around 300 in 1996.

People With Disabilities

Congress passed a law in 1994 to promote the integration of people with disabilities into society, and the National Fund for the Handicapped (FONDIS) has a \$1.5 million budget. The 1992 census found that 288,000 citizens said that they had some form of disability, but FONDIS estimates that the actual number is closer to 1 million. About 400,000 citizens are considered mentally disabled. The disabled still suffer some forms of legal discrimination; for example, blind people cannot become teachers or tutors. Although the law requires that new public buildings provide access for the disabled, the public transportation system does not make provision for wheelchair access, and a new subway line in the Santiago metropolitan area provides no facilitated access for the disabled.

Indigenous People

Less than 10 percent of the population is classified as indigenous. The Mapuches from the south comprise over 90 percent of the indigenous population, but there are small Aimara, Atacameno, Huilliche, Rapa Nui, and Kawaskhar populations in other parts of the country. A committee composed of representatives of indigenous groups participated in drafting the 1993 law that recognizes the ethnic diversity of the indigenous population and gives indigenous people a voice in decisions affecting their lands, cultures, and traditions. It provides for eventual bilingual education in schools with indigenous populations, replacing a statute that emphasized assimilation of indigenous people. However, out of the population that identifies itself as indigenous (nearly 1 million, according to the 1992 census), about half remain separated from the rest of society, largely because of historical, cultural, educational, and geographical factors. In practice, the ability of indigenous people to participate in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources is marginal. Indigenous people also experience some societal discrimination.

National/Racial/Ethnic Minorities

Chile assimilated a major European migration in the last century and a major Middle Eastern and Croatian migration in the early part of this century. Smaller racial and ethnic minority groups (Chileans of Asian descent and African-Chileans) experience some societal intolerance.

Section 6 Worker Rights

a. The Right of Association

Workers have a right to form unions without prior authorization and to join existing unions; 13 percent of the employed work force is organized. A 1995 law provides government-employee associations with the same rights as trade unions. However, this right is not enjoyed by police or military personnel, nor by employees of state-owned companies attached to the Ministry of Defense. Members of unions are free to withdraw from union membership.

The 1992 Labor Code permits nationwide labor centrals, and the Unified Workers Central (CUT), the largest and most representative of these, legalized its status in April 1992. Labor unions are effectively independent of the Government, but union leaders are usually elected from lists based on party affiliation and often receive direction from parties' headquarters. There are no restrictions on the

political activities or affiliations of unions or union officials. Registering a union is a simple process.

Reforms to the Labor Code in 1990 removed many restrictions on the right to strike, although some remain. Employees in the private sector have the right to strike, and the Government regulates this right. However, the law proscribes employees of some 30 companies--largely providers of essential services (e.g., water and electricity)--from striking; it stipulates compulsory arbitration to resolve potential strikes in these companies. Public officials do not enjoy this right, although government teachers, municipal and health workers have struck in the recent past. There is no provision for compulsory arbitration in the public sector.

Employers must pay severance benefits to striking workers and must show cause to fire workers. Employees who believe that they have been unfairly dismissed or dismissed because of their trade union activities file complaints with the Ministry of Labor. If the claim is approved, the employer must make special and additional compensatory payments. Congress approved legislation that took effect in March and places the burden of proof on the employer in cases in which employees allege illegal antiunion activity.

The CUT and many other labor confederations and federations maintain ties to international labor organizations.

b. The Right to Organize and Bargain Collectively

Despite legal provisions for collective bargaining, most workers negotiate individual contracts. Employers say that this is due to the workers' preference, distrust of union leaders, and loyalty to companies. Union leaders counter that the Labor Code--which among other things does not allow union shops--prevents successful organization in many sectors. Employers may also include a clause in individual employment contracts that bars some classes of employees from collective bargaining, although this applies only to supervisory personnel. Employees may object to the inclusion of such clauses in their contracts and may appeal to the Ministry of Labor for their excision.

The Ministry of Labor arbitrates about one-half of the complaints it receives. Workers may take unarbitrated cases to the courts. If complainants succeed in proving they were fired unjustly, the employer must pay discharged employees twice their normal severance payment. There are no statistics available concerning the disposition of complaints of antiunion behavior. There are allegations that employers fire workers for union activity and attempt to avoid a complaint by immediately paying them some multiple of the normal severance pay.

Temporary workers--defined in the Labor Code as those in agriculture and construction, as well as port workers and entertainers--may form unions, but their right to collective bargaining remains dependent on employers agreeing to negotiate with unions of temporary workers. Likewise, inter-company unions enjoy the right of collective bargaining only if the employer agrees to negotiate with such a union. Labor Code sanctions against unfair bargaining practices protect workers from dismissal only during the bargaining process. Labor leaders complain that companies invoke the law's needs-of-the-company clause to fire workers after a union has signed a new contract, particularly when negotiations result in a prolonged strike.

Labor laws apply in the duty-free zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution and the Labor Code prohibit forced or compulsory labor, and it is not known to occur. While the Labor Code does not specifically prohibit forced and bonded labor by children, there were no reports of such practices.

d. Status of Child Labor Practices and Minimum Age for Employment

The law allows children between the ages of 15 and 18 to work with the express permission of their parents or guardians. Children 14 years of age may also work legally with such permission, but they must have completed their elementary education, and the work involved may not be physically strenuous or unhealthy. Additional provisions in the law protect workers under 18 years of age 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 one day). Labor inspectors enforce these regulations and compliance is good in the formal economy. The Labor Code does not specifically prohibit forced and bonded labor by children, but such practices were not known to occur (see Section 6.c.). Many children are employed in the informal economy. A government study estimates that there are 15,000 children between the ages of 6 and 11 and 32,000 children between the ages of 12 and 14 were in the work force. The majority of these were males from single-parent households headed by women; among these were children who worked more than 40 hours per week and did not attend school. The Ministry of Labor convenes regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor.

e. Acceptable Conditions of Work

The law sets minimum wages, hours of work, and occupational safety and health standards. The legal workweek is 48 hours, which can be worked in either 5 or 6 days. The maximum workday length is 10 hours, but positions such as caretakers and domestic servants are exempted. All workers enjoy at least one 24-hour rest period during the workweek, except for workers at high altitudes who voluntarily exchange a work-free day each week for several consecutive work-free days every 2 weeks.

The minimum wage is adjusted annually. This wage is designed to serve as the starting wage for an unskilled single worker entering the labor force and does not provide a family with an acceptable standard of living. Only 11 percent of salaried workers earn the minimum wage. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. In May the Senate approved the Government's proposal with little dissent, setting the minimum monthly wage at about \$173 (71,400 pesos), effective in July.

Occupational health and safety are protected under the law and administered by the both the Ministries of Health and of Labor. The Government has increased resources for inspections by over 60 percent since 1990 and targeted industries guilty of the worst abuses. As a result, enforcement is improving, and voluntary compliance is fairly good. A law that became effective in December 1996 increased the number of annual occupational health and safety inspections and provided that they be carried out by an expanded labor inspection service in the Ministry of Labor. Insurance mutual funds provide workmen's compensation and occupational safety training for the private and public sectors. They reported a 24-percent decline in occupational injuries over the past 5 years, although 11 percent of the work force still submitted claims. Workers who remove themselves from situations that endanger their health and safety have their employment protected if a real danger to their health or safety exists. The Ministry of Labor recently promulgated a general standard for safety in the forestry sector, where accident rates have greatly exceeded the national average.

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