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## 2010 Human Rights Report: Chile

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

April 8, 2011

Chile is a multiparty democracy with a population of approximately 17 million. On January 17, in free and fair elections voters chose Sebastian Pinera Echenique of the center-right Coalition for Change as president. Security forces reported to civilian authorities.

There were isolated reports of excessive use of force and mistreatment by police forces, physical abuse in jails and prisons, and generally substandard prison conditions. The government generally took steps to investigate and punish abusers.

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, there were reports of two killings by security forces.

On March 10, in Hualpen, a naval patrol allegedly detained and beat David Riquelme to death during the curfew imposed after the February 27 earthquake. A military court accused five sailors of unnecessary violence resulting in death, and the case was pending at year's end.

On June 26, police in Cabrero detained and beat Francisco Coronado, who died in the police van before it reached the police station. A military court indicted police Corporal Rafael Diaz of homicide, and the case was pending at year's end.

On August 20, a military court convicted carabineros (the uniformed national police) Corporal Walter Ramirez of "unnecessary violence resulting in death" and sentenced him to three years on parole for the 2008 shooting of Matias Catrileo during an indigenous occupation of private land. At year's end Ramirez continued on active duty, and an appeal was pending before the Supreme Court. On November 8, a military prosecutor recommended a sentence of 15 years for

police Corporal Miguel Patricio Jara, indicted for the August 2009 shooting of Jaime Mendoza during an indigenous land occupation. The case was pending before a military judge at year's end (see section 6, Indigenous People).

On September 10, Judge Alejandro Madrid convicted 14 former military officers of kidnapping, homicide, and criminal conspiracy in the 1991 kidnapping and subsequent death of former National Intelligence Directorate (DINA) agent Eugenio Berrios. The emblematic case uncovered actions of dictatorship security agents took to evade justice after the 1991 transition to democracy.

In December 2009 Judge Madrid charged six persons in the poisoning death of former president Eduardo Frei Montalva in 1982. A DINA agent, a doctor, and Frei's driver were charged with murder; two other doctors who allegedly falsified the autopsy were charged as accessories to the crime, and another doctor was charged as an accomplice. The case remained pending at year's end.

On April 28, the Supreme Court rejected an appeal to reopen the 1993 kidnapping and murder case of dual Chilean-Spanish citizen Carmelo Soria, who was killed by DINA agents in 1976. The Supreme Court closed the case with no convictions in 1996, after applying the amnesty law. In September 2009 Judge Madrid charged seven former army officials with obstruction of justice in the Soria case. One of the seven was Sergio Cea, the military prosecutor in charge of investigating Soria's death. The case remained pending at year's end.

On July 8, the Supreme Court upheld the 2008 convictions of nine former DINA agents, including former DINA director Manuel Contreras and two civilians, for the 1974 car-bomb assassination of former army commander Carlos Prats and his wife. However, the high court reduced some sentences, gradually applying the statute of limitations, which allows for the discretionary reduction of sentences.

On November 15, the Santiago Appellate Court ordered Judge Jorge Zepeda to reopen his investigation into the 1974 death of former interior minister Jose Toha, characterized as a suicide at the time. The case was pending at year's end.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The Diego Portales University's Human Rights Observatory reported that as of July the Supreme Court had paroled or reduced sentences of approximately two-thirds of 213 former security agents convicted of dictatorship-era human rights abuses, including disappearance, execution, and torture, whose cases had reached the high court.

Judge Zepeda continued his investigation into the 1985 disappearance case of U.S. citizen Boris Weisfeiler. On March 4, Weisfeiler family members resubmitted the case to the Advisory Commission on the Classification of Disappearances, Political Executions, and Victims of Political Imprisonment and Torture (Valech Commission), which in February began accepting new and resubmitted requests to recognize dictatorship-era cases as human rights violations (see section 5). The first truth and reconciliation commission in 1991 did not recognize the Weisfeiler disappearance as a human rights violation. A decision on the family's application was pending at year's end.

More than 120 indictments of former members of the military, carabineros, plainclothes Investigations Police (PDI), and prison system (gendarmeria) for "permanent kidnappings" perpetrated by DINA agents from 1974 to 1976 were issued in September 2009 and remained pending at year's end.

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

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

On December 14, six carabineros were relieved from duty following allegations of psychological abuse against Juan Berrios, who was detained in a police van and threatened at gunpoint with "disappearance." The events were caught on video and broadcast on the local news. Lorena Fries, Director of the National Institute of Human Rights, called the actions torture and cruel, inhuman, and degrading treatment. The case remained pending at year's end.

The gendarmeria opened administrative investigations into 38 allegations of abuse through June, compared with 88 in all of 2009. Of the 2009 cases, one resulted in officials receiving sanctions, 11 were closed, and 76 were pending at year's end.

#### Prison and Detention Center Conditions

Prison conditions generally were poor. Prisons often were overcrowded and antiquated, with substandard sanitary conditions. The 2010 Diego Portales University Law School *Annual Report on Human Rights* reported that overcrowded prisons with substandard sanitary, food, and medical services were a problem in some prisons. It also described cases of prisoner abuse and use of excessive force.

In isolated instances, prisoners died due to lack of clear prison procedures and insufficient medical resources. Prison officials reported that there were 61 deaths from preventable causes as of September, compared with 73 in all of 2009. Prisoners with HIV/AIDS and mental disabilities failed to receive adequate medical attention in some prisons.

As of September government sources indicated there were approximately 56,000 prisoners in prisons designed to hold 34,000 inmates. Prisons in the Santiago area were at nearly double their capacity. Prisoners included 4,697 women, who were held in separate sections of the same facilities. As of June there were 1,477 minors held in specially designated facilities. Nearly 800 minors were held provisionally during their trial.

On December 8, 81 inmates died in a fire started during a fight between rival gangs at the San Miguel Prison in Santiago. Although reports varied, it is estimated that the prison held approximately 1,900 prisoners although designed to hold only 1,100. A prosecutor's investigation remained pending at year's end.

On December 21, 36 inmates, six guards, and one police officer were injured during an uprising at the Antofagasta prison. Prisoners were protesting the nationwide suspension of privileges following the December 8 prison fire at San Miguel. Approximately 800 inmates were also participating in a hunger strike in support of the San Miguel prisoners. The Antofagasta prison, which was designed to hold 684 prisoners, held 1,326 at the time of the riot.

The prosecutor's investigation of an April 2009 fire the Colina II penitentiary center that resulted in 10 deaths remained pending at year's end.

In December 2009 an agreement to stay proceedings conditionally was reached in the case of six former employees of the National Children's Service (SENAME) charged with manslaughter for the 2008 death of 10 adolescents in their care at the Tiempo de Crecer juvenile detention center in Puerto Montt.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities generally investigated these allegations and documented the results in a publicly accessible manner.

The government generally investigated and monitored prison and detention center conditions.

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

#### d. Arbitrary Arrest or Detention

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

##### Role of the Police and Security Apparatus

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

##### Arrest Procedures and Treatment While in Detention

Only public officials expressly authorized by law can arrest or detain citizens and generally did so openly with warrants based on sufficient evidence brought before an independent judiciary. Authorities must immediately inform a prosecutor of an arrest and generally did so in practice.

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

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

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

#### e. Denial of Fair Public Trial

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

##### Trial Procedures

Defendants enjoy a presumption of innocence and have a right of appeal. 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, defendants have the right to be present and to consult with an attorney in a timely manner, 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 across the country provide professional legal counsel to anyone seeking such assistance. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf, although the law does provide for protected witnesses in certain circumstances. Defendants and their attorneys generally have access to government-held evidence relevant to their cases with some exceptions. When requested by other human rights organizations or family members, the NGO Corporation for the Promotion and Defense of the Rights of the People and other lawyers working pro bono assisted detainees during interrogation and trial.

For crimes committed prior to the implementation of the 2005 judicial reforms, criminal proceedings are inquisitorial rather than adversarial. At year's end two inquisitorial criminal courts remained open: each had extensive waits for trial.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees, although some indigenous Mapuche awaiting trial claimed to be political prisoners.

#### Regional Human Rights Court Decisions

On September 17, the Inter-American Commission of Human Rights (IACHR) filed a case with the Inter-American Court on Human Rights in the 2004 petition of Karen Atala, a lesbian judge who claimed discrimination in the loss of custody of her three daughters. In April the IACHR had issued a report, which concluded that Atala's rights were violated and urged the government to make reparations to her and to adopt legislation, policy, and programs to prohibit discrimination based on sexual orientation. In response the Pinera administration announced it would set up a working group to address the IACHR's recommendations, but the Supreme Court refused to participate.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, which permits access for lawsuits regarding human rights violations. However, the civil justice system retains antiquated and inefficient procedures. The average civil trial lasted approximately five years and civil suits could continue for decades. There are administrative and judicial remedies available for alleged wrongs.

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

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

#### Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Military courts may charge and try civilians for defamation of military personnel and for sedition, but their rulings can be appealed to the Supreme Court.

The independent media were active and expressed a wide variety of views without restriction. President Pinera owned Chilevision (CHV), one of three major networks, until he completed sale of the company on October 6.

The government-funded National Television Council (CNTV) is responsible for ensuring that television programming respects "the moral and cultural values of the nation." The CNTV's principal role is to regulate violence and sexual explicitness in both broadcast and cable television programming. Films and other programs judged by the CNTV to be excessively violent, to have obscene language, or to depict sexually explicit scenes may be shown only after 10 p.m., when "family viewing hours" end. The CNTV occasionally levied fines or pressured stations to reschedule programs. For instance, on October 5, CNTV sanctioned television channel CHV (Chilevision) for broadcasting a parody of Jesus Christ on a comedy club show in April.

On January 18, a Santiago tribunal dismissed criminal libel charges brought against freelance journalist Pascale Bonnefoy in 2006.

On April 22, the Villarrica penal court acquitted documentary filmmaker Elena Varela Lopez, who had been charged with "illegal association with intent to commit an offense" and "links with a terrorist group" related to bank raids in 2004-05.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available to citizens, and the International Telecommunication Union reported that there were 41 Internet users per 100 inhabitants in 2009.

The Net Neutrality Law, which prohibits Internet Service Providers from arbitrarily blocking, interfering with, or discriminating against access to Internet content or applications, went into effect on August 26. The reform also establishes the obligation to make information about connection plans transparent.

#### Academic Freedom and Cultural Events

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

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

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

#### c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

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

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

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile and the government did not use it.

#### Protection of Refugees

The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. During the year 75 residents were given recognized refugee status, for a total of 1,614 residents with that status at year's end.

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

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

#### Elections and Political Participation

On January 17, voters in a free and fair run-off election chose Sebastian Pinera Echenique of the center-right Coalition for Change as president. In December 2009 voters also elected 18 of the 38 senators and all members of the Chamber of Deputies in elections generally considered free and fair.

Political parties can operate without restriction or outside interference.

There were 17 women in the 120-seat Chamber of Deputies and five women in the 38-seat Senate. There were six women in the 22-member cabinet, down from 10 in 2009. Women were underrepresented in other elective offices.

Indigenous people have the legal right to participate freely in the political process, but relatively few were active. No member of the legislature or the cabinet identified himself or herself as indigenous.

#### Section 4 Official Corruption and Government Transparency

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

On January 21, a judge convicted Andres Contardo, a former consultant for both the Civil Registry and Tata Consultancy Services, of disclosing secret civil registry information regarding a public tender for a new technology platform. Contardo was sentenced to more than four years in prison but was released on parole. On May 28, the prosecutor in charge indicted 37 other individuals, including the former Civil Registry director and Tata executives, for fraud, bribery, and disclosure of secret information. On July 20, three of the accused were convicted of being accomplices. On July 21, the prosecutor agreed to a stay in proceedings for 11 others who cooperated with the investigation and agreed to complete community service and return public funds. On November 8, a judge temporarily stayed proceedings until defense attorneys had full access to the case files, a decision upheld in December by the Santiago Appellate Court. The remainder of those indicted awaited trial at year's end.

On January 1, a Santiago court absolved three former State Railroad Company executives, including former president of the board Luis Ajenjo, of fraud in a high-profile case dating from 2006.

On July 1, a judge convicted Carlos Cruz, former minister of public works, transportation, and telecommunications, and Sergio Cortes, former finance director of the ministry's Highways Division of fraud for approximately 800 million pesos

(\$1.57 million) in a 2001 case. Cruz and Cortes were sentenced to prison but released on parole. In total the judge convicted 13 individuals and absolved 17 others in the case.

On July 13, Public Prosecutor Victor Vidal brought charges against Margarita Cuadros Aedo for criminal association, bribery, falsification of public documents, and obstruction of an investigation into judicial corruption. Vidal also charged four former officials for their role in the ring. In 2009, 17 individuals from corruption rings within the judicial system were convicted of the same crimes. The criminal rings falsified certifications that a prisoner had completed time, misplaced files, and falsified judicial decisions. Those convicted included six current and two former PDI officers, two carabineros, and two judicial officials.

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

The constitution requires the government and its agencies to make all unclassified information about their activities available to the public. In practice the government granted citizens and noncitizens, including foreign media, access to all unclassified information. An autonomous transparency council provides for the right of access to information and rules on cases in which information is denied. In such cases reasons for denial are generally provided and have legal basis. For the year the Transparency Council considered 985 cases of denials for information requests. The Council made decisions on 85 percent of those, while the remaining cases were under analysis.

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

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

There is no human rights ombudsman. During the year the autonomous National Institute of Human Rights (INDH), created by a December 2009 law, began functioning with a mandate to submit a human rights report to government bodies and international organizations, propose changes to government agencies to ensure the promotion and protection of human rights, and initiate legal action for gross human rights violations. On December 9, the INDH published its first annual report. The Senate and Chamber of Deputies also have standing Human Rights Committees that are responsible for drafting human rights legislation.

On February 7, the Valech Commission began accepting new and resubmitted requests to recognize dictatorship-era cases of execution, disappearance, and torture as human rights violations. The application process was open for six months, and the Commission received more than 32,500 petitions. In cases recognized as involving human rights violations, victims' family members and survivors are eligible for reparations. In addition the Ministry of Interior's Human Rights Program can become a plaintiff in cases recognized as human rights violations.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government enforced these prohibitions. However, such discrimination continued to occur.

##### Women

The law criminalizes rape, including spousal rape. Penalties for rape range from five to 15 years' imprisonment, and the government generally enforced the law.

The law protects the privacy and safety of the victim making the charge. During the year the Public Prosecutor's Office investigated 4,803 cases of rape, and the courts handed down 942 rape convictions. Experts, however, believed that most rape cases went unreported.

The Ministry of Justice and the PDI operated several offices specifically dedicated to providing counseling and assistance in rape cases.

Domestic violence against women remained a serious problem. During the year, 49 women were killed as a result of domestic or sexual violence, compared with 55 in 2009.

The law prohibits domestic violence. Family courts handle cases of domestic violence and penalize offenders with fines up to 556,680 pesos (\$1,092). Additional sanctions include eviction of the offender from the residence shared with the victim, restraining orders, confiscation of firearms, and court-ordered counseling. Cases of habitual psychological abuse and physical abuse cases in which there are physical injuries are prosecuted in the criminal justice system. Penalties are based on the gravity of injuries and range from 61 to 540 days' imprisonment. During the year the Public Prosecutor's Office initiated investigations into 117,475 cases of family violence, and 14,257 offenders were convicted for domestic violence. The authorities generally enforced the law in cases reported to them. However, experts believed that most domestic violence cases went unreported.

Government actions to confront domestic violence included a more aggressive national awareness campaign that began in October and a dating violence awareness campaign launched in November. The National Women's Service operated 92 assistance centers and 24 shelters for women and maintained partnerships with NGOs to provide training for police officers and judicial and municipal authorities on the legal and psychological aspects of domestic violence.

On December 18, the Femicide Law went into effect, characterizing the murder of a woman by her husband or partner, current or past, as a crime in the Penal Code. The new law penalizes those convicted of femicide to the highest murder sentence possible (15 to 40 years' imprisonment).

Sexual harassment generally was a problem. The law provides protection to victims of sexual harassment by employers and coworkers. It also provides severance pay to victims who resign due to sexual harassment if they have completed at least one year with the employer. By law sexual harassment is cause for immediate dismissal. The law requires employers to define internal procedures for investigating sexual harassment, and employers may face fines and additional financial compensation to victims if internal procedures are not met. The authorities generally enforced the law in cases reported to them. Through November the Labor Directorate received 82 complaints of sexual harassment.

Couples and individuals had the right to decide freely and responsibly the number, spacing, and timing of children and had the information and means to do so free from discrimination, coercion, and violence. Contraception and skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care were available. The Population Reference Bureau reported that the rate of contraceptive use among married women was 64 percent, and the incidence of maternal mortality in 2008 was 26 per 100,000 live births. On January 28, the Regulation of Fertility Law establishing norms for family planning and sexual health information and services went into effect. The law provides for the free distribution of emergency contraception in the public health system. It also mandates the establishment of sexual education programs in high schools.

Women faced significant obstacles to preventing HIV infection, including socio-cultural norms, gender-based violence, and lack of information.

The law on surgical sterilizations requires voluntary informed consent. However, in the Center for Reproductive Rights study, some HIV-positive women reported that healthcare workers pressured or forced them to undergo surgical sterilization.

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

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

The 2009 Supplemental Survey of Incomes estimated the overall gender income gap at 29 percent. Among those with university education, the income gap was 34.5 percent. In December 2009 a law providing for equal pay for equal work went into effect. The law requires companies with 10 or more workers to establish a formal internal complaint procedure, while those with 200 or more workers must also generate a registry detailing employee positions and functions. The labor code provides specific benefits for pregnant workers and mothers of children under two years old, including a prohibition against dismissal during pregnancy and throughout the 449 days after the birth of a child. The National Women's Service is in charge of protecting women's legal rights.

#### Children

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

Violence against children was a significant problem. According to press reports, there were almost 55,000 reported cases of child abuse between January and August, an increase of 2,000 from the same period in 2009.

The law prohibits sexual abuse of minors and suspends the statute of limitations in such cases. During the year the Public Prosecutor's Office investigated 418 cases of commercial juvenile sexual exploitation, compared with 333 in 2009. During the year SENAME assisted 1,084 victims of commercial juvenile sexual exploitation, compared with 1,062 in all of 2009. SENAME ran 16 programs specifically for victims of commercial sexual exploitation and 84 additional programs for children and youth in high-risk situations, including commercial sexual exploitation. SENAME also collaborated with municipal governments to run 114 local branches of the Office for the Protection of Children's Rights throughout the country. SENAME, the carabineros, and the PDI cooperated with schools and NGOs to identify children in abusive situations, to provide counseling and other social services to abused children, and to keep families intact.

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

On July 7, the press reported that preparations continued for a trial against 10 individuals charged in 2009 for their involvement in a child prostitution ring in Valparaiso. On December 31, a Valparaiso penal court found four of the 10 guilty of obtaining sexual services from persons over 14 but under 18. Sentences were not decided as of year's end.

On September 22, SENAME closed their internal investigation into commercial sexual exploitation of residents at their Capullo youth home in the Bio-Bio region without bringing charges against any of its officials. However, PDI detectives arrested nine individuals for alleged sexual exploitation of adolescent girls in exchange for small sums of money, drugs, food, or clothing. Four lawsuits resulted, three of which ended in convictions, while the fourth remained pending at year's end.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

#### Anti-Semitism

There were various reports of anti-Semitic incidents during the year, such as acts of vandalism, verbal slurs, bomb threats, and online harassment. Vandalism included desecration of Jewish community institutions, such as schools, synagogues, and cemeteries. In an October 6 press article, the vice president of the Jewish Community of Chile noted various acts of vandalism of homes in Santiago, Lota, and Puerto Montt. There were approximately 15,000 members of the Jewish community.

Neo-Nazi and skinhead groups engaged in gang-type criminal activities and violence against immigrants, gays and lesbians, punk rockers, and anarchists. Some skinhead groups shared the anti-Semitic rhetoric of neo-Nazi groups.

On June 17, the Vina del Mar penal court convicted Elliot Quijada, a neo-Nazi militant, of illegal arms possession as well as of hate crimes for his September 2009 harassment of Lily Perez, who is Jewish, during her campaign for senator. The court sentenced Quijada to 600 days of prison for illegal arms possession and fined him approximately 1.85 million pesos (\$3,565) for hate speech.

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

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

The government did not effectively implement laws and programs to ensure that persons with disabilities have access to buildings, information, and communications. A majority of public buildings did not comply with legal accessibility mandates. An improved transportation system in Santiago provided additional, but still limited, accessibility for persons with disabilities. Public transportation outside of the capital remained problematic.

The National Fund for Persons with Disabilities under the jurisdiction of the Ministry of Planning has responsibility for protecting the rights of persons with disabilities and for creating programs to promote their better integration into society.

#### National/Racial/Ethnic Minorities

In general, societal violence or discrimination against members of national, racial, or ethnic minorities or groups was not a problem. However, on December 27, the regional director of the Solidarity and Social Investment Fund (a part of the Ministry of Planning) in Arica-Parinacota resigned after an employee of African descent, who had been fired, accused him of racism and discrimination based on his skin color.

#### Indigenous People

The law gives indigenous persons (approximately 5 percent of the total population) the right to participate in decisions affecting their lands, cultures, and traditions; and provides for bilingual education in schools with indigenous populations. However, both internal factors and governmental policies limited the participation of indigenous persons in these decisions. Indigenous persons also experienced some societal discrimination, and there were reported incidents in which they were attacked and harassed.

There were isolated instances of violence between the Mapuche and landowners, logging companies, and police in the southern part of the country. The actions usually took the form of protests regarding historic Mapuche concerns about their rights to ancestral lands. Instances of rock throwing; land occupations; and burning crops, buildings, or vehicles occurred. Mapuche activists and police forces stationed in the area to guard private lands sometimes engaged in skirmishes.

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

On November 16, the Temuco Appellate Court found that carabineros had violated the constitutional rights of children from the Mapuche community Muko Bajo. Carabineros had conducted interviews at the Blanco Lepin Rewe Kimun School during school hours, allegedly for the purpose of gaining information from youths about Mapuche individuals under investigation under the antiterrorism law. The students reported that they were harassed by the police. The appellate court put in place a protective order prohibiting such actions without a court order. The same appellate court put in place a similar protective order after PDI officers interrogated children from the same community on May 18. On December 3, the press reported that carabineros had again interviewed a 10-year-old from the same indigenous community.

On November 8, military prosecutor Rodrigo Vera completed his investigation and recommended a sentence of 15 years for Special Forces police Corporal Miguel Patricio Jara, indicted for the August 2009 death of Jaime Mendoza. Mendoza was shot and killed while he and approximately 30 other Mapuche individuals occupied private land in Ercilla. The military prosecutor's report established that Jara was not attacked and that Mendoza did not use a firearm. The case was pending before a military judge in Valdivia at year's end.

On August 20, a Santiago military court convicted carabineros Corporal Walter Ramirez of "unnecessary violence resulting in death" and sentenced him to three years in prison for the 2008 shooting of Matias Catrileo during an occupation by indigenous persons of private land. The ruling increased the sentence handed down by a Valdivia military tribunal on January 15, but allowed Ramirez to serve time on parole. Ramirez remained on active duty, and an appeal before the Supreme Court was pending at year's end.

The Ethical Commission Against Torture's annual report noted that as of June the government used the antiterrorism law to prosecute 57 Mapuche individuals or sympathizers whose protests included destruction of property, attacks on farms, or confrontations with police. In addition seven Mapuche individuals were under prosecution in the military justice system. In 2009 the Working Group on the UN Human Rights Council Universal Periodic Review, the UN Committee on the

Elimination of all forms of Racial Discrimination, and the UN rapporteur on indigenous peoples all recommended that the government limit its application of the antiterrorism law in the context of Mapuche protests.

On July 12, more than 30 Mapuche prisoners, the majority of whom were awaiting trial, went on a hunger strike to protest their prosecution under the antiterrorism law and the military justice system. The government entered into negotiations with the hunger strikers in September, and on October 1, a majority of them called off their strike after the government agreed to reclassify its charges against the Mapuche prisoners under the ordinary penal code and to push forward reform of the military justice system. Congress passed reforms to the antiterrorism law September 30. The remaining Mapuche prisoners ceased their hunger strike on October 9 after the government agreed to present legislation that would provide constitutional recognition of the country's indigenous peoples.

However, trials of Mapuche individuals under the antiterrorism law continued at year's end. On November 8, a criminal trial began in Canete against 18 Mapuches charged by the public prosecutor with a series of antiterrorist crimes, including terrorist illicit association and frustrated homicide during a 2008 attack on a public prosecutor and police. The trial was pending at year's end. Five of the 18 were simultaneously prosecuted in the military justice system. On December 16, the five individuals were acquitted by a military court in Valdivia on grounds of insufficient evidence.

On December 11, the Network of NGOs for Children and the Support for Unprotected Children Foundation began an online campaign to protest the continued application of the antiterrorism law to three Mapuche youth held in a SENAME juvenile justice facility awaiting trial. On December 31, the Temuco Appellate Court upheld a lower court's denial of conditional release for one of the youths.

On December 30, a legal reform of the military justice system went into effect that restricts the jurisdiction of the military courts to members of the armed forces and carabineros and explicitly prohibits the prosecution of minors in the military justice system. The law includes transition measures and procedures for the transfer more than 4,600 cases to the ordinary criminal justice system. The reform did not change the jurisdiction of the military justice system for prosecuting all types of crimes committed by members of the Armed Forces or carabineros.

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. CONADI also administered the Land and Water Fund, which provides mechanisms and financing for the acquisition of lands and water rights by indigenous communities. Indigenous rights experts pointed out that the majority of land transferred to indigenous communities via the Land and Water Fund was land already in use by indigenous communities. During the year indigenous groups staged protests over ancestral land disputes.

On July 31, indigenous Rapa Nui families on Easter Island began a sit-in at private and public buildings, including Hotel Hanga Roa, to demand the restitution of ancestral lands. On September 7, a police contingent, accused of using excessive force, evicted the protesters. Protesters reoccupied the buildings afterwards, and the sit-in continued at some of the buildings at year's end. The press reported that the Rapa Nui protesters filed for a protection order before the IACHR on October 1 to prevent the violation of their civil and property rights. On December 3, a police contingent evicted 11 Rapa Nui protesters who had been occupying a government-owned property and detained three of them. Protesters alleged that the police used excessive force at that time and hours later when a group of Rapa Nui individuals returned to the site. The press reported nearly 40 injured in the clash, including three Rapa Nui and one carabinero who were airlifted to the continent for medical treatment. The government announced a significant increase in the police contingent on the island. On December 27, a public prosecutor announced that he would indict 17 protesters involved in the Hotel Hanga Roa sit-in. On December 28, the Valparaiso Appellate Court agreed to process a protective order in favor of the Rapa Nui injured on December 3. On December 29, a police contingent evicted protesters from the Hanga Roa civic plaza, where they had

constructed makeshift shelters and had been demonstrating since March; 10 protesters were injured and nine were arrested. On December 30, the INDH issued a statement deploring excessive use of force by police.

In its 2010 annual report, the Observatory for the Protection of Human Rights reported arbitrary detention, intimidation, and harassment of Mapuche community leaders and legal representatives, as well as of NGOs associated with the promotion of indigenous rights and journalists who cover the issue.

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

Gay marches and rallies occurred in Santiago and elsewhere in the country without violence or other incidents. The events received appropriate government authorization. The Movement for Homosexual Integration and Liberation (MOVILH) reported 124 cases of discrimination due to sexual orientation in 2009, compared with 65 reported cases in 2008, an increase the MOVILH attributed to the open debate over the rights of sexual minorities during the 2009 presidential campaign, the publication of a manual on diversity and sexual orientation education, and a decision by the family court to grant a gay man custody of his two children.

In May 2009 a LGBT couple (former carabineros) sued the state for 50 million pesos each (\$96,000), alleging that their superiors threatened to make public their sexual orientations if they did not resign. The case remained pending at year's end.

#### Other Societal Violence or Discrimination

The law prohibits discrimination against persons on the basis of their HIV status, and in the area of healthcare, the law provides that neither public nor private health institutions can deny access to healthcare services on the basis of a person's serological status. However, several HIV-positive women interviewed for a study by the Center for Reproductive Rights recounted receiving discriminatory treatment in the healthcare setting, especially in reproductive health services. Problems included delayed care, verbal abuse, pressure not to have children, or refusal of treatment.

#### Section 7 Worker Rights

##### a. The Right of Association

Workers have the right to form and join independent unions of their choice without previous authorization. The law enables some government interference in union political and financial activity. Union leaders are restricted from being members of political parties, and the Directorate of Labor has broad powers to monitor union accounts and financial transactions. The government estimated that 13 percent of the total workforce (approximately 6.7 million) was unionized in 9,801 registered unions. Police and military personnel may not organize.

The law allows strikes, with some limitations, and the government protected this right in practice. Public employees do not enjoy the right to strike, however, public sector strikes sometimes occurred. On August 26, an estimated 80,000 public employees began a 24-hour strike to protest significant layoffs in the public sector; on November 24, a reported 400,000 employees began an open-ended strike for higher wages. The strike ended on December 16 when public employees agreed to the originally offered 4.2 percent pay increase.

While employees in the private sector have the right to strike, the government regulated and placed some restrictions on this right. Strikes by agricultural workers during the harvest season are prohibited. The law also proscribes employees of 31 private sector companies, largely providers of services such as water and electricity, from striking, and stipulates compulsory arbitration to resolve disputes in these companies.

The law does not specifically prohibit employers from dismissing striking workers; however, employers must show cause and pay severance benefits if they dismiss strikers.

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

Collective bargaining is protected by law, but the right of some public employees, entertainers, and temporary agricultural, construction, and port workers to bargain collectively is limited. The government guarantees collective bargaining rights only at the company level, and where the employer agrees to negotiate with the collective. Collective bargaining in the agricultural sector remained dependent on employers' agreeing to negotiate. Intercompany unions are permitted to bargain collectively only when the individual employers agrees to negotiate under such terms.

According to Freedom House and the International Trade Union Confederation, antiunion practices--including violence against union leaders, unfair dismissals of union leaders, and replacement of striking workers--continued to occur. NGOs reported companies also used subcontracts and temporary contracts as a form of antiunion discrimination and to increase the size of the workforce without collective bargaining rights.

There are no export processing zones.

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

The law prohibits forced or compulsory labor; however, there were reports that such practices occurred, primarily for domestic servitude and forced prostitution, including by children. Child prostitution remained a problem, and some children were forcibly employed in the drug trade. Foreign citizens were trafficked into the country for forced labor, notably in domestic servitude, mining, and agriculture.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

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

The law protects children from exploitation in the workplace, and the government generally enforced these laws. However, despite laws restricting child labor, the employment of children was a problem in the informal economy and in agriculture. Children worked in the production of ceramics and books, and in the repair of shoes and garments. In urban areas boys commonly worked and carried loads in agricultural loading docks and assisted in construction activities, while girls sold goods on the streets and worked as domestic servants. Children in rural areas were involved in caring for farm animals, as well as harvesting, collecting, and selling crops, such as wheat, potatoes, oats, and quinoa. Children also worked in fishing and forestry. Children continued to be exploited for commercial sex and used in the production and sale of drugs and to transport drugs in the border area with Peru and Bolivia.

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

During the year there were 571 detected cases of children and adolescents involved in the worst forms of child labor, compared with 288 cases in 2009; 44 percent of these cases involved girls. Most reported child and adolescent labor cases involved children over the age of 15 and children not enrolled in school. Examples included commercial sexual exploitation, workplaces lacking minimum safety and health conditions, and illegal activities.

Ministry of Labor inspectors enforced regulations, and while compliance in the formal economy was high, children were employed in the informal economy. During the year the Ministry of Labor imposed some form of sanction in 104 cases involving violations of child labor laws, compared with 47 cases from January to October 2009.

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

#### e. Acceptable Conditions of Work

The minimum wage is set by law and is subject to annual adjustment. A committee composed of government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. On July 1, the minimum wage increased 4.2 percent to 172,000 pesos (\$331) a month. This wage did not provide a worker and family with a decent standard of living. As of March 1, the minimum wage for domestic servants was 92 percent of that for other occupations. The minimum wage for workers over age 65 and under 18 was 128,400 pesos (\$247) a month. 720,000 Chileans (11 percent of the workforce) make the minimum wage or less; over 1 million make between 1 and 1.25 times the minimum wage. The Labor Directorate, under the Ministry of Labor, was responsible for enforcing minimum wage and other labor laws and regulations, and it did so effectively.

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

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

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