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## 2010 Human Rights Report: Peru

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

April 8, 2011

Peru is a multiparty republic with a population estimated at 30 million. In 2006 Alan Garcia Perez of the American Popular Revolutionary Alliance (APRA) party won the presidency in elections that were considered free and fair. Security forces reported to civilian authorities.

The following human rights problems were reported: incidents of killings by security forces of protesters during demonstrations, most of which were being investigated by authorities; abuse of detainees and inmates by prison security forces, for which the government took steps to prosecute and punish those responsible; harsh prison conditions; lengthy pretrial detention and inordinate trial delays; lack of full compliance with regional human rights court decisions; intimidation of the media by local authorities; incomplete registration of internally displaced persons; government corruption; violence and discrimination against women; violence against children, including sexual abuse; and trafficking in persons. There was also some discrimination against racial- and ethnic-minority individuals; indigenous persons, lesbian, gay, bisexual, and transgender (LGBT) persons; individuals with disabilities; and persons with HIV/AIDS as well as a lack of labor-law enforcement and the exploitation of child labor, particularly in the informal sector.

The terrorist organization Sendero Luminoso (Shining Path) was responsible for killings and other human rights abuses, including the recruitment of child soldiers, extortion, and intimidation. The organization was also deeply involved in narcotics trafficking.

#### 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, in episodes of societal unrest, protesters and security forces were killed.

On April 4, six civilians were killed and 29 persons, including police, were injured during a confrontation, reportedly involving gunfire and tear gas, between police and demonstrating miners who blocked a stretch of the Pan-American Highway in Chala, Arequipa Region. At year's end the Public Ministry was investigating the incident, but no formal charges had been brought.

On July 27, security forces killed a protester during a demonstration against the export of natural gas in Quillabamba, Cusco Region. At year's end the Public Ministry was investigating the incident, but no formal charges had been brought.

On August 3, a clash between government coca eradication personnel and approximately 300 growers who tried to stop the eradication operation in an area close to Aguaytia, Ucayali Region, resulted in the death of one grower and the injury of two others. At year's end there were no reported developments.

On September 16, clashes between police and residents of Espinar, Cusco Region, who protested against the Majes Siguanas II dam project, resulted in the death of one protester (Leoncio Fernandez Pacheco) and the injury of 18 others. At year's end the Public Ministry was investigating the incidents, but no formal charges had been brought.

On June 22, a special congressional committee, created to investigate the killings of two protesters during a February 2009 agrarian strike in Ayacucho, released its final report that concluded it was not possible to prove that security forces caused the deaths. At year's end court proceedings continued against police officer Carlos Alberto Rodriguez Huamani.

Investigations into the June 2009 clashes between police and indigenous protesters in and around Bagua, Amazonas Region, which resulted in the deaths of 10 civilians and 24 police officers (see section 6, Indigenous People), concluded on January 25 and led to seven legal cases in which authorities were investigating 96 indigenous and mestizo persons on kidnapping and homicide charges at year's end. Several human rights organizations complained that investigators failed to question key authorities and most of the 222 police involved and that defendants lacked interpreters.

There were no developments in the September 2009 case of security force members who shot four persons attempting to impede Coca Eradication Agency workers in Bolson Cuchara, Huanuco Region. One of the shooting victims died.

There were no developments in a prosecutor's investigation into the 2008 killings of four persons and the disappearances of two children during an antiterrorist operation by security forces in the Rio Seco area of the Apurimac and Ene River Valleys (VRAE).

The trial of former intelligence service director Vladimiro Montesinos, former armed services chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio Montesinos--for alleged extrajudicial killings following the 1997 rescue of 74 hostages at the Japanese ambassador's residence--resumed in March and continued at year's end. A former Japanese diplomat, who was among the hostages, testified again in December that he saw at least three hostage-takers alive at the time of the rescue.

On January 3, the Supreme Court of Justice announced its December 30, 2009, decision to uphold the sentencing of former president Alberto Fujimori to 25-years' imprisonment for authorizing the mass killings in 1991 at Barrios Altos and in 1992 at La Cantuta as well as the kidnapping of journalist Gustavo Gorriti in 1992. At year's end Fujimori remained in prison concurrently serving this sentence and others imposed in 2009 and earlier.

On October 1, the First Special Penal Court convicted members of the paramilitary "Colina Group" of the killings at Barrios Altos and El Santa and the killing of journalist Pedro Yauri in the early 1990s and sentenced them to prison terms ranging from 15 to 25 years. Vladimiro Montesinos, Nicolas de Bari, Julio Salazar, and Juan Rivero--then leaders of the intelligence service--were among the convicted. The court determined that the group received financial and logistical support from the military and the presidency.

Juan Manuel Rivera-Rondon, implicated in the 1985 killings of 69 villagers during a military raid in the village of Accomarca, remained in custody while on trial in the Third Supraprovincial Court. Meanwhile, Telmo Ricardo Hurtado Hurtado, also implicated in the massacre, remained in a foreign country pending the outcome of extradition proceedings.

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The Public Ministry continued investigating a mass grave of unknown date discovered in 2006 in Pichari, Cusco Region. The government's Institute of Legal Medicine (IML) awaited DNA results to help identify 25 of the exhumed bodies; another 36 of the 83 bodies exhumed through June were identified, and five were returned to their families.

During the year the Peruvian Forensic Anthropology Team identified 12 of the 37 bodies connected to the 1984 Huanta Stadium case that were found in a clandestine mass grave in Pucayacu, Ayacucho Region. Analysis of the remains began in December 2009.

Human rights activists asserted throughout the year that the National Penal Court, the highest court handling human rights cases against military personnel, proceeded slowly and tended either to acquit or issue lenient sentences. However, there was no consensus on whether a climate of impunity existed for military personnel accused of abuses: some claimed judges were subjected to subtle pressure, such as strong public statements supporting the military, but not to direct governmental interference; others attributed the situation to prosecutorial failure to prepare strong cases, rather than to political pressure.

During the year members of the two Shining Path terrorist organization factions conducted 136 terrorist acts in remote coca-growing areas that resulted in the killings of six police officers, nine soldiers, and 10 civilians in the Upper Huallaga Valley. There were credible reports that women and children (see section 6, Children) participated in Shining Path operations in order to attempt to thwart security-force responses or to underpin allegations of abuse by those forces.

#### b. Disappearance

There were no reports of politically motivated disappearances during the year, and there were no known developments in the 2008 disappearances of two children in the VRAE region (see section 1.a.).

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

The law prohibits such practices. There were reports that security officials used excessive force, and authorities seldom punished those who committed such abuses.

Allegations of abuse most often arose immediately following an arrest, when families were prohibited from visiting suspects and when attorneys had limited access to detainees. In some cases police and security forces allegedly threatened or harassed victims, their relatives, and witnesses to prevent them from filing charges of human rights violations. According to the nongovernmental Human Rights Commission (COMISEDH), some victims were reluctant to pursue judicial proceedings for fear that members of the security forces allegedly involved in abuses would be released without being charged. COMISEDH reported that 30 cases of claimed aggravated torture by security forces had been reported to provincial prosecutors.

On September 16, the Pisco Superior Court sentenced four former members of a neighborhood watch patrol (Serenazgo) (Felix Angel Guerrero Cana, Cesar Rogger Felipa Ortiz, Juan Guillermo Moreno Solis, and Pedro Eusebio Mayhua Quintanilla) to five years in prison and a fine for the October 2008 torture of alleged thief Saul Conislla Manrique. The ruling was the first such conviction against Serenazgo members.

#### Prison and Detention Center Conditions

Prison conditions were harsh for most of the country's 45,599 inmates, of whom 2,784 were women, 985 were juveniles ages 18-19 years. The National Penitentiary Institute (INPE) operates 57 of the country's active prisons, while the Peruvian National Police (PNP) has jurisdiction over 14. Prisoners with money had access to cell phones, illegal drugs, and meals prepared outside the prison; prisoners who lacked funds experienced much more difficult conditions. Overcrowding, poor sanitation, and inadequate nutrition and health care were serious problems. Inmates had intermittent access to running water, bathing facilities were inadequate, kitchen facilities were unhygienic, and prisoners slept in hallways and common areas for lack of cell space. There was basic medical care at most prisons, but there were complaints that inmates had to pay for medical attention. There was also a lack of doctors; only 54 doctors worked at the country's 71 prisons, with 34 based in the capital city area. Tuberculosis and HIV/AIDS reportedly remained at near-epidemic levels. The San Juan de Lurigancho men's prison held 8,730 prisoners in a facility designed for 3,204.

Prisons for women were also overcrowded and marked by conditions similar to those for men. In an INPE-operated facility for women opened in 2008, prisoners continued to complain about dormitory-style sleeping quarters. INPE operated a high-security prison in the jungle area of Iquitos that was in poor condition and remained under renovation.

Prison guards and fellow inmates reportedly abused prisoners. Guards received little or no training or supervision. There were killings in prisons, most attributed to fellow inmates. In addition, during a December inspection in Lurigancho prison, authorities found the body of Leslie Dayan Paredes, a visitor, in the cell of her boyfriend. The inmate, Jackson Sanford Staling Conket, confessed to killing Dayan and hiding her body when she visited him in August, and authorities suspended police personnel for failing to notice that she never checked out of the prison.

By December authorities had sentenced only 18,223 of the 45,599 persons held in the country's facilities (see section 1.d., Arrest Procedures and Treatment while in Detention). Authorities held these detainees temporarily in pretrial detention centers located at police stations, judiciary buildings, and the Palace of Justice and in most cases with convicted prisoners.

The government permitted monitoring visits by independent human rights observers. International Committee of the Red Cross officials during the year made 48 unannounced visits to inmates in 19 prisons and detention centers in accordance with standard modalities and met with a total of 222 persons (69 women) of the 712 persons detained in those facilities. The Office of the Human Rights Ombudsman also made regular visits to both Lima and provincial prisons. The ombudsman urged the government to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure that prisoners did not serve beyond the maximum sentence for the charged offense.

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 investigated such complaints and documented the results in a publicly accessible manner. The ombudsman reported that most complaints stemmed from not being released on time due to the slow judicial process and INPE administration, not due to inhumane conditions, and that the number of such complaints during the year diminished because of improved INPE recordkeeping. Human rights advocates maintained that the government failed to allocate the resources needed to monitor and improve prison conditions and criticized INPE leadership for lacking competence.

#### d. Arbitrary Arrest or Detention

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

#### Role of the Police and Security Apparatus

The PNP, with an officer and enlisted force as of September of approximately 100,000, was responsible for all areas of law enforcement and internal security and functioned under the authority of the Ministry of the Interior. The PNP's organizational structure comprises directorates that specialize in specific areas (such as kidnapping, counternarcotics, and counterterrorism) and local police units. Each region, province, district, city, and town has a PNP presence.

On October 7, the president launched the Citizen Security Initiative, a first-time meeting of national government authorities, the PNP, and newly elected local officials aimed at improving citizen safety.

Observers noted that the PNP was undermanned and its members lacked training and professionalism. According to an October 21 Ombudsman's Office report, 30 percent of police stations lacked basic equipment and infrastructure, thus placing PNP officials and the public at risk and undermining PNP capability. More than 50 percent of police stations inspected did not have sufficient vehicles, weapons, or gasoline, and more than 30 percent lacked sufficient communications equipment.

The armed forces, with approximately 115,000 personnel, are responsible for external security under the authority of the Ministry of Defense but also have limited domestic security responsibilities, particularly in the VRAE region.

Corruption and a high rate of acquittals for military personnel accused of crimes remained problems (see section 4). The Ministries of Interior and Defense employ internal mechanisms to investigate allegations of abuses by security forces. The Public Ministry conducts investigations, although access to evidence held by the Ministry of Defense was not always forthcoming. The ombudsman is another mechanism, although she may only refer a case to the Public Ministry.

On September 1, the government adopted four executive decrees relating to security-force activities and the procedures for civilian court investigations of military and police actions. Decrees 1094 and 1096 established a military justice system. Decree 1095 established rules for the use of force by the military in situations of noninternational armed conflict. At presidential request, Congress rescinded one of the decrees (Decree 1097) on September 14 at the urging of domestic and international human rights and civil liberties organizations, which maintained the decree would have applied a 2003 statute of limitations and could have granted virtual amnesty to some security-force members accused of human rights abuses committed during the 1980s and 1990s. (Nobel Laureate Mario Vargas Llosa resigned in September as president of the Museum of the Memory Commission in protest over the decree.) Human rights activists claimed that the three other decrees remaining in force created a culture of security-force impunity. In particular, activists raised concerns that Decree 1095, which some claimed is unconstitutional, expands the rules of engagement for military personnel to permit the use of force during societal conflicts that take place in areas in which no state of emergency has been declared.

The PNP is charged with witness protection responsibilities but lacked resources to provide officer training, conceal identities, or offer logistical support to witnesses. Officers often used their own homes to protect witnesses.

#### Arrest Procedures and Treatment While in Detention

The law permits police to detain persons for investigative purposes. Persons were apprehended openly. The law requires a written judicial warrant based on sufficient evidence for an arrest unless the perpetrator of a crime is apprehended in the act. Only judges may authorize detentions. Authorities are required to arraign arrested persons within 24 hours, except in cases of terrorism, drug trafficking, or espionage, for which arraignment must take place within 15 days. In remote areas arraignment must take place as soon as practicable. Military authorities must turn over persons they detain to the police

within 24 hours. The law requires police to file a report with the Public Ministry within 24 hours after an arrest. The Public Ministry, in turn, must issue its own assessment of the legality of the police action in the arrest; authorities respected this requirement in practice.

The time between an arrest and an appearance before a judge averaged 20 hours. Judges have 24 hours to decide whether to release a suspect or continue detention. A functioning bail system exists, but many poor defendants lacked the means to post bail. By law detainees are allowed access to family members and to a lawyer of their choice. Police may detain suspected terrorists incommunicado for 10 days. The Ministry of Justice provided indigent persons with access to an attorney at no cost, although these attorneys were often poorly trained. Several nongovernmental organizations (NGOs) worked with the ministry to improve their skills.

Lengthy pretrial detention continued to be a problem. According to INPE statistics, as of October 60 percent of those in prison were awaiting trial, the majority for between one and two years. The law requires release of prisoners who have been held more than 18 months without being tried and sentenced; the period is extended to 36 months in complex cases.

#### e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected this provision in practice. NGOs and other analysts complained that the judiciary was politicized and corrupt (see section 4).

The seven-person Constitutional Tribunal operates independently of the judicial branch. The independent and autonomous National Judicial Council (CNM) appoints, disciplines, and evaluates all judges and prosecutors (excluding those chosen by popular election) who have served in their positions for at least seven years. Withdrawal of CNM certification permanently disqualifies a judge or prosecutor.

The National Penal Court continued investigating cases involving allegations of human rights abuses by security forces during the internal conflict with the Shining Path and the Tupac Amaru Revolutionary Movement (MRTA) in the 1980s and 1990s. Several cases referred by the Truth and Reconciliation Commission remained pending with the court, but only a few involved active investigations.

#### Trial Procedures

The justice system is based on the Napoleonic Code. A prosecutor investigates cases and submits an opinion to a first-instance judge, who determines if sufficient evidence exists to open legal proceedings. A judge conducts an investigation, evaluates facts, determines guilt or innocence, and issues a sentence. All defendants are presumed innocent; they have the right to be present at trial, to call witnesses, and to be represented by counsel. The Ministry of Justice provided indigent defendants with access to an attorney at no cost, although these attorneys were often poorly trained. Defendants and their attorneys generally have access to government-held evidence related to their cases for recent crimes, except in cases connected to human rights abuses of the period 1980-2000 and particularly with respect to those involving the Ministry of Defense. Although citizens have the right to be tried in their own language, language services for non-Spanish speakers, who comprise a substantial number of persons in the highlands and Amazon regions, were sometimes unavailable (see section 1.a.). Defendants may appeal verdicts to a superior court and then to the Supreme Court. The Constitutional Tribunal decides cases involving such issues as habeas corpus.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Regional Human Rights Court Decisions

The Inter-American Court of Human Rights issued seven follow-up orders during the year to monitor the country's compliance with earlier decisions, all of which involved acts during the Fujimori administration. In the following two cases, the government fulfilled none of the required actions, which included paying damages as ordered and publishing sentences in the daily register: (1) the case involving Gustavo Cesti Hurtado, a former army captain who was jailed for two years in 1998 after being illegally tried in a military court despite being retired; and (2) the case involving the 1992 extrajudicial killings of 42 accused Shining Path members and the injury of many others at Miguel Castro Castro Penitentiary. Additional cases involved a forced disappearance, the mass firing of congressional workers, a revocation of citizenship, and two arrests without cause.

In all the cases, the Inter-American Court of Human Rights specified timing for the government to report compliance progress. For two cases--those of Cesti Hurtado and Ivcher Bronstein (a naturalized citizen stripped of citizenship after his television station aired programming opposing the Fujimori administration)--the deadline was in 2010, but no such report was issued by year's end in either case. For the remaining cases, the follow-up report was due in 2011.

On April 20, the Ministry of Justice paid a total of 2.1 million soles (approximately \$740,000) in court-ordered compensation to relatives of the forcibly disappeared Santiago Gomez Palomino, to relatives of victims of the La Cantuta mass killings, and to two victims of torture and inhumane treatment (Bernabe Baldeon Garcia and Luis Alberto Cantoral Benavides)--all incidents that occurred in 1992.

#### Civil Judicial Procedures and Remedies

The country has an independent judiciary that enables citizens to bring lawsuits for violations of their rights; however, court cases often continued for years. Press reports, NGOs, and others alleged that those outside the judiciary frequently corrupted or influenced judges (see section 4).

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

The law prohibits such actions, and the government generally respected these prohibitions in practice. There were reports, however, that authorities sometimes entered private dwellings before obtaining a warrant. There were no known cases of the government monitoring private communications.

#### 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 national government generally respected these rights. However, there were instances of harassment of the press, including attacks directed against journalists by regional and municipal authorities and police.

Independent media were active and expressed a variety of views. All media outlets were privately owned except for one government-owned daily newspaper, two television networks, and one radio station.

A number of journalists and media outlets reported experiencing threats or intimidation. By December 15, the National Journalists Association reported 194 cases of harassment during the year (up from 180 cases for the same period in 2009) and the Institute of Press and Society issued 85 alerts (up from 82 for the same period in 2009). Of the harassment cases reported by the National Journalists Association, 63 involved harassment by civilian authorities and 27 were committed by police and military personnel. The Inter American Press Association periodically expressed its concern about attacks on freedom of expression in the country. Most incidents involved threats; judicial and administrative

pressure, including revocation of licenses; and physical violence. Among the incidents reported by the country's journalist associations were the following:

On February 2, in Chimbote, Ancash Region, members of the Cuenta Conmigo party of regional president Cesar Alvarez beat newspaper journalists Paul Meza Castaneda (Correo) and George Vergaray Sanchez (La Industria de Chimbote) who reported Alvarez's failure to appear at a judicial hearing about his alleged involvement in a woman's accidental death in 2009.

On February 12, in Lima, Constitutional Tribunal judge Raul Rosales More aimed a gun at photojournalist Carlos Saavedra of Caretas magazine after public criticism of a controversial sentence commutation.

On February 27, police in Barranco District, Lima Province, beat and arrested newspaper reporter Jose Puga (El Comercio) and freelance photographer Jean Marco Cordova for covering alleged police repression against individuals holding an illegal party.

On June 5, in Iquitos, Loreto Region, the director of the La Voz de Nauta program of Radio Anaconda, Salomon Valle, received anonymous telephone death threats that demanded he withdraw his complaint against the Nauta police station chief, Major Armando Ludena, for allegedly seducing a minor. Valle had published photographs of the alleged act on Radio Anaconda's Facebook page.

On August 18, after an Institute of Press and Society appeal and NGO allegations of political motivation, the Ministry of Transport and Communications reinstated the operating license of Radio La Voz in Bagua, Amazonas Region, which it had suspended in June 2009 after accusations the station incited violent and deadly protests (see section 1.a.).

On November 15, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) stated its general concern about the country's use of defamation charges against those who denounce or express critical opinions about public officials. The office also declared its particular concern about the criminal defamation case brought against Lima Mayor-elect Susana Villaran, prior to her run for office, for publishing an Internet article in 2009 concerning a 2004 accusation of corruption against a government minister. After Judge Benjamin Enriquez Colfer procedurally remanded the case to Judge Carmen Nancy Choquehuanca, at year's end the case continued. In another defamation case, the Supreme Court ordered the release from prison in June of Nor Oriente regional weekly newspaper editor Alejandro Carrascal Carrasco after he had served five months of a one-year sentence for libeling a local official.

#### 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 engaged in the free expression of views via the Internet, including by e-mail. The chief impediment to Internet access was a lack of infrastructure; the International Telecommunication Union reported that there were 31 Internet users per 100 inhabitants in 2009.

#### Academic Freedom and Cultural Events

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

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

##### Freedom of Assembly

The constitution provides for the right of freedom of assembly, and the government generally respected this right in practice. However, the government maintained emergency zones and suspended the freedom of assembly and other freedoms in coca-growing areas where Shining Path terrorists operated. The emergency zones were located in Ayacucho, Cusco, Huancavelica, and Junin regions.

The law does not require a permit for public demonstrations, but organizers must inform the Interior Ministry's political authority (prefect) about the type of demonstration and its location. Demonstrations may be prohibited for reasons of public safety or health. Police used tear gas and occasional force to disperse protesters in various demonstrations. Although most demonstrations were peaceful, protests in some areas turned violent, and some deaths and injuries resulted (see section 1.a.).

#### Freedom of Association

The law provides for freedom of association, and the government generally respected this right 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 law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government maintained emergency zones where it restricted freedom of movement in several provinces, an effort it stated was designed to ensure public peace and restore internal order (see section 2.b., Freedom of Assembly).

Narcotics traffickers and Shining Path members at times interrupted the free movement of persons by establishing roadblocks in sections of the Upper Huallaga Valley and the VRAE region. Occasionally protesters blocked roads to draw public attention to grievances.

The law prohibits forced exile, and the government did not engage in such practice.

#### Internally Displaced Persons

There were no major incidents of internal displacement during the year, and the situation of existing internally displaced persons (IDPs) continued to be difficult to assess. According to the Office of the UN High Commissioner for Refugees (UNHCR), the number of IDPs remained unknown, because officials registered relatively few. The Internal Displacement Monitoring Center reported that the government had estimated in 2007 that approximately 150,000 persons remained internally displaced from the conflict between security forces and the Shining Path and the MRTA during the period 1980-92; however, during the year there was no evidence of a continuing problem (see section 5).

#### Protection of Refugees

The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government cooperated with the UNHCR Office and recognized the Catholic Migration Commission (CMC) as the official provider of technical assistance to refugees. The CMC also advised citizens who feared persecution and sought asylum abroad. The government provided protection to refugees on a renewable, year-to-year basis, in accordance with CMC recommendations. For the year the UNHCR reported 264 pending refugee requests and 1,146 refugees who the government recognized.

#### Stateless Persons

Citizenship is derived either by birth within the country's territory or from one's parents. If overseas, parents must register their child's birth by age 18 in order for the child to obtain citizenship. The law provides all citizens with the right to a name, nationality, and legal recognition, and it also provides for other civil, political, economic, and social rights. An estimated 226,000 citizens, however, lacked identity documents and could not fully exercise these rights. Poor indigenous women and children in rural areas were disproportionately represented among those lacking identity documents. Undocumented citizens faced social and political marginalization and barriers in accessing government services, including running for public office or holding title to land. Obtaining a national identity document requires a birth certificate, but many births in rural areas occurred at home. Poor women who gave birth at home often could not pay the fees associated with registration.

In an effort to lower infant mortality rates, the Ministry of Health provided free registration for women who gave birth in clinics or hospitals.

The ombudsman investigated complaints about the unlawful practice of charging fees to issue identity documents and facilitated refunds when such fees had been paid. The ombudsman also helped citizens obtain documents promptly.

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

The law provides for the right of citizens to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of mandatory voting and universal suffrage.

#### Elections and Political Participation

In 2006 Alan Garcia assumed the presidency after two rounds of presidential elections that were considered free and fair. In those elections, the president's APRA party won 36 congressional seats. Presidential and congressional terms are five years, and the law prohibits the consecutive reelection of a president.

Domestic and international observers declared the October 3 nationwide regional and municipal elections to be fair and transparent, despite a few local incidents of violence and long delays in vote counting in some areas.

Political parties operated without restriction or outside interference. Registration of a new political party requires the signature of 1 percent of the voters who participated in the past election. Groups that advocate violent overthrow of the government are barred from participating in the political process. In the October elections, there were no parties that so advocated, although a few candidates were former members of such groups.

There were 32 women in the 120-member unicameral Congress. Three of 17 cabinet members were women, as was one of the 16 justices of the Supreme Court. The law mandates that at least 30 percent of the candidates on party lists be women, and the parties complied. However, many female candidates were low on the lists. The municipality of Lima elected its first female mayor on October 3.

There were 23 Quechua and two Aymara speakers in Congress. Two members of Congress identified themselves as Afro-Peruvians.

#### Section 4 Official Corruption and Government Transparency

The law criminalizes official corruption; however, the government did not always implement these legal provisions effectively. World Bank indicators reflected that government corruption was a serious problem, and there was a widespread perception that corruption was pervasive in all branches of government.

On November 18, Congress approved a law that provides independent authority to the Office of the Comptroller General (OCG) to sanction public officials who commit corrupt acts and that specifies penalties, including temporary suspension and termination of employment and handling a case as a criminal infraction. Previously the OCG was empowered only to recommend punishment to leaders of each department and agency of government for their decision, which resulted in many corrupt public officials avoiding punishment.

Corruption in prisons was a serious problem, and in some cases guards cooperated with criminal bosses who oversaw the smuggling of guns and drugs into prisons.

There were several reports of military corruption, impunity, and resistance to providing information on military personnel under investigation for human rights abuses committed during the country's internal armed conflict. Security forces sought to strengthen accountability with training in human rights and the revision of disciplinary procedures but were doing so slowly.

Fernando Barrios, appointed interior minister in October, resigned after a local newspaper reported that he received a large, irregular severance supplement upon resigning as the head of the National Social Security Service. Members of Congress called for a full investigation of the supplement's legality, and Barrios testified before lawmakers, but by year's end there had been no determination.

Numerous members of Congress were involved in scandals during the year, but most cases were deemed ethics violations and handled through internal congressional investigations and discipline. The judiciary investigated a few of the cases, but authorities made no arrests. In the 2009 case of Alas Peruanas, a private university under investigation for financing travel of several members of Congress, two Supreme Court justices faced a disciplinary process by the National Council of Magistrates. The council found the justices guilty of an infraction, a verdict that was upheld on appeal. The justices were reprimanded, and no other proceedings were expected.

Allegations of widespread corruption in the judicial system continued. Experts voiced concerns about increasing politicization of the judiciary during the current administration. In August the Judicial Defense Council, an executive branch multisectoral consultative council, in a report sent to the Prosecutor's Office, the Office of Magisterial Oversight, and the Supreme Court, identified and criticized a network of corruption in the judiciary and named 116 magistrates, some of whom allegedly were linked to narcotics trafficking. None of the report's recipients took action explicitly in response to the report, although the Magisterial Oversight Office investigated and suspended some judges. In December a panel of Supreme Court justices elected self-avowed corruption fighter Cesar San Martin as president of the judicial branch and the Supreme Court.

The scandal labeled "Petroaudios"--the 2008 public release of audiotapes suggesting government kickbacks associated with oil concessions and the subsequent arrest of former government minister Romulo Leon and Perupetro's Alberto Quimper Herrera--led to investigations that were completed during the year. At year's end Leon remained in jail, Quimper was under house arrest, and a trial was expected to start in 2011.

The January 2009 arrests of several individuals (including former navy officers) for illegal wiretapping related to Petroaudios as well as further investigation revealed illegal wiretapping of members of Congress, judges, and other high-profile individuals. The perception persisted that the judiciary sought to limit the scope of the investigations, and some of the wiretapping evidence was reported during the year as lost or altered. On September 8, the investigation by the judiciary's Comptroller's Office concluded that police and Prosecutor's Office staffs did not properly manage sensitive information; at year's end a judicial investigation continued.

On December 30, 2009, the Supreme Court upheld the convictions of former president Fujimori on embezzlement, bribery, and other charges (see section 1.a.).

Most public officials are subject to financial disclosure laws and must submit personal financial information to the OCG prior to taking office and periodically thereafter.

The law provides for public access to government information, and most ministries and central offices provided information on Web sites. Implementation of the law was incomplete, particularly in rural areas, where few citizens exercised or understood their right to information. The ombudsman encouraged regional governments to adopt more transparent practices for releasing information and monitored their compliance with the requirement for public hearings at least twice a year.

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

A large number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. NGOs seeking information from military commanders had to work through the Ombudsman's Office.

The government's Reparations Council continued assisting persons who suffered during the 1980-2000 conflict with the Shining Path and the MRTA. The council compiled a registry of victims, which included more than 84,000 individuals and 5,600 communities eligible for reparations benefits. The Ministry of Women and Social Development (MIMDES) also maintained a registry specifically for IDPs that included approximately 5,000 individuals. A number of victims and family members lacking proper identity documents had difficulties registering their eligibility for reparations.

The government cooperated with international governmental organizations and permitted visits by UN representatives. The UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism--who conducted a fact-finding mission in September and was scheduled to present his findings and recommendations to the UN Human Rights Council in March 2011--raised concerns about relatively frequent state-of-emergency declarations in the country and derogations from human rights obligations because of terrorism.

The Office of the Human Rights Ombudsman operated its 28 offices and 10 satellite sites without government or party interference and was considered effective, although it lacked adequate resources. During the year the office issued four reports with recommendations on sustainable forestry policy, children's rights, access to rural electrification, and police-station conditions. The government took account of these recommendations in differing degrees.

Congressional committees included the Justice and Human Rights Committee and a committee for health, population, family, and persons with disabilities. They made no reports and had limited policy impact; credible NGOs did not consider them valuable beyond their legislative functions.

On November 4, the president and other dignitaries laid the first stone of the Museum of the Memory dedicated to the victims of the 1980-2000 internal conflict.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, but enforcement lagged and discrimination persisted.

##### Women

The law criminalizes rape, including spousal rape, but enforcement was not effective. MIMDES reported 4,253 cases of rape during the year; there were no available statistics on abusers prosecuted, convicted, or punished.

The law prohibits domestic violence, and penalties range from one month to six years in prison. The law authorizes judges and prosecutors to prevent the convicted spouse or parent from returning to the family home and authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence. It also allows health professionals to document injuries. The law requires police investigation of domestic violence to take place within five days and obliges authorities to extend protection to women and children who were victims of domestic violence.

Violence against women and girls, including rape, spousal abuse, and sexual, physical, and mental abuse remained a problem. Insensitivity on the part of law enforcement and judicial authorities toward female victims contributed to a societal attitude of permissiveness toward abuse. A trend developed during the year of media stories on the mistreatment of women. In some instances such coverage compelled authorities to take legal action after initially declining to do so. For example, in the August case of a woman whose husband threw boiling water on her, by year's end authorities jailed the husband pending trial. MIMDES reported that there were 80 femicides and 29 attempted killings of women for the year through September.

Many domestic abuse cases went unreported, and NGOs stated that the majority of reported cases did not result in formal charges because of fear of retaliation or the expense of filing a complaint. The protections offered were limited because of legal delays, ambiguities in the law, and the short supply of victim shelters.

MIMDES operated the Women's Emergency Program, which included 114 centers that combined police, prosecutors, counselors, and public welfare agents to help victims of domestic abuse. It also sought to address the legal, psychological, social, and medical problems facing victims of domestic violence. The level of public services fluctuated daily; for example, 920 persons received attention on July 22, and 1,095 persons received attention on December 20 (most individuals were follow-up cases). A 2009 ombudsman report on the centers highlighted the government decentralization process and challenges the centers faced, such as a lack of qualified professionals. MIMDES also operated a toll-free hotline that answered a monthly average of 1,543 calls through November.

MIMDES continued efforts to sensitize government employees and the citizenry to domestic violence, but the ombudsman asserted that police officers reacted indifferently to charges of domestic violence, despite legal requirements to investigate such complaints.

Sexual harassment was a problem. The law defines sexual harassment as a labor-rights violation subject to administrative punishment, which depends on the professional situation in which the violation occurred. Government enforcement was minimally effective.

Couples and individuals had the right to decide the number, spacing, and timing of their children free from discrimination and generally had the means and information to do so. Access to information on contraception and family planning was

high, according to a National Institute of Statistics and Information demographic and family-health survey that included figures for the first half of the year: 99.5 percent of women were aware of some family-planning method, although only approximately half were using a modern method. The NGO Population Reference Bureau listed the use of all methods of contraception among married women ages 15-49 at 73 percent. The availability of skilled attendance at delivery varied widely between urban (93.7 percent of births) and rural (58.7 percent of births) areas. According to the UN Population Fund, in 2008 there were an estimated 98 maternal deaths per 100,000 live births per year. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV, and according to Demographic and Health Surveys, had approximately the same level of knowledge about those infections.

The law provides for equality between men and women and prohibits discrimination against women with regard to marriage, divorce, and property rights, and women from the upper and upper-middle classes assumed leadership roles in companies and government agencies. The law prohibits racial and sexual discrimination in employment or educational advertisements and the arbitrary dismissal of pregnant women; however, in practice discrimination continued.

The law stipulates that women should receive equal pay for equal work. However, societal prejudice and discrimination led to disproportionate poverty and unemployment rates for women. Women usually worked in less-secure occupations as maids, in factories, or as street vendors, and were more likely to be illiterate due to lack of formal education. According to a 2010 World Economic Forum survey, women were paid 38 percent less than men for comparable work.

#### Children

Citizenship is derived either by birth within the country's territory or from one's parents. There were problems with government registration of births (see section 2.d.). Although this did not cause denial of public services, it limited access to social welfare programs and public health services.

The constitution stipulates that primary and secondary education is free. However, citizens and NGOs asserted neither was completely free in practice, and fees for parental associations, administration, and educational materials greatly reduced access for lower-income families.

Violence and sexual abuse of children were serious problems. MIMDES reported 1,768 cases of violence or sexual abuse of children five years of age and younger and 4,216 cases of abuse of children ages six to 11 during the year. Many abuse cases went unreported because societal norms viewed such abuse as a family problem to be resolved privately. The Women's Emergency Program received information through child-rights and welfare-protection offices and worked to help child victims of violence.

The MIMDES Children's Bureau coordinated government policies and programs for children and adolescents. At the grassroots level, more than 1,300 child-rights and welfare-protection offices resolved complaints ranging from physical and sexual abuse of children to abandonment and failure to pay child support. Provincial or district governments operated approximately half of these offices, while schools, churches, and NGOs ran the others. Law students staffed most of the units, particularly in rural districts. When these offices could not resolve disputes, officials usually referred cases to the Public Ministry's local prosecutor offices, whose adjudications were legally binding and had the same force as court judgments.

The law prohibits child prostitution, penalizing perpetrators with five to 12 years in prison. The country was a destination for child sex tourism, with Cusco and Iquitos as the principal locations. Involvement in child sex tourism is punishable by two to eight years in prison. The Foreign Trade and Tourism Ministry ran publicity spots to disseminate information about the problem.

Statutory rape law stipulates different rape offenses, including rape of a minor younger than 14 years, with penalties ranging from six years to life in prison. The penalty for involvement in child pornography is four to eight years' imprisonment and a fine.

Children continued to be used in armed combat, mainly in those parts of the country plagued by narcotics trafficking and terrorism. The March petition to the IACHR by the NGO National Coordinator for Human Rights (CNDDHH) claimed that both the Shining Path groups in the VRAE region and the country's armed forces recruited children. Documentation of the Shining Path recruitment surfaced in November after digital-camera photographs found at the site of an October government raid on a suspected Shining Path narcotics-trafficking unit showed children ages five to 16, many of them armed with automatic weapons, apparently as part of a group led by Leonardo Huaman Zuniga (or "Alipio"), a notorious Shining Path leader known for bloody ambushes. It was thought that children such as those were sometimes kidnapped from local towns and were sometimes the children of Shining Path members.

The country's military, no longer a conscripted force, bars minor children from being enlisted. However, according to the CNDDHH, there continued to be credible reports of children under age 18 in the armed forces, most apparently minors who misrepresented their ages. According to the CNDDHH, the youths most at risk of being recruited were in the country's poorest areas, and they were also those most often sent patrolling in the VRAE area, which put them particularly at risk of death or injury. In March government representatives met with IACHR officials to discuss the CNDDHH petition, but it remained unclear whether the government complied with the IACHR request for a written status report. A June report by the NGOs CNDDHH and Save the Children stated that the government and the military had not done enough to end child recruitment; however, the NGOs also cited continuing efforts by the army commander, who in May 2009 assured them that he had ordered the discharge of approximately 1,000 adolescents and an end to the recruitment of minors. During the year the government incorporated proposals, which were developed by the National Commission for the Study and Application of International Humanitarian Law (in which the CNDDHH was an observer), into a draft law to prevent children from serving as soldiers and submitted it to Congress.

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 was a Jewish population of approximately 4,000 persons. There were no reports of anti-Semitic acts.

#### 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 constitution addresses social security, health, education, and employment matters for persons with disabilities as well as their right to engage in business, trade, and industry. The law provides for the protection, care, rehabilitation, security, and social inclusion of persons with disabilities; mandates that public spaces be free of barriers and accessible to persons with disabilities; and provides for the appointment of a disability rights specialist in the Ombudsman's Office. In addition the law mandates that Internet sites maintained by governmental, institutional, and other service providers be accessible to persons with disabilities and requires accessibility through the inclusion of sign language or subtitles in all educational and

cultural programs on public television and in media alternatives in all public libraries. The law prohibits discrimination against persons with disabilities and establishes infractions and sanctions for noncompliance with specified norms.

However, the government devoted limited resources to enforcement and training, and many persons with physical disabilities remained economically and socially marginalized. Government at the national, regional, and local levels made little effort to ensure access to public buildings. There were no interpreters for the deaf in government offices and no access to recordings or Braille for the blind. The majority of government Web sites remained inaccessible to persons with disabilities, and only the congressional television channel offered sign language interpretation.

A report during the year by the Ibero-American Federation of Ombudsmen, a group headed by the country's ombudswoman, Beatriz Merino, highlighted the gap between policy and implementation and pointed out measures not taken since the 2007 ratification of the UN Convention on the Rights of Persons with Disabilities. The report also pointed out the lack of enforcement of accessibility standards in buildings and public transport and noted that mainstream schools were not prepared to incorporate students with disabilities, despite being encouraged to do so by the government.

The government failed to enforce laws safeguarding and attending to persons with mental disabilities in situations of social abandonment. The number of medical personnel providing services in psychiatric institutions was insufficient to care for all patients. The Ombudsman's Office reported in 2009 that the government did not adequately protect the rights of persons with mental illnesses, inhumanely treated institutionalized patients, discriminated in the provision of health and social services, and failed to ensure informed consent.

The Ombudsman's Office tracked instances of abuse of persons with disabilities in educational facilities. A 2000 report identified 38 cases of mistreatment of students with disabilities in special-education facilities, but there was no statistic for mainstream schools. A 2007 report stated that 15.6 percent of teachers and 15.7 percent of students reported cases of abuse of children with disabilities in their mainstream schools.

The MIMDES National Council for the Integration of Persons with Disabilities (CONADIS) is responsible for protecting the rights of such persons. CONADIS continued to work with the NGO Sense International to provide educational, vocational, and training services to meet the needs of hearing- and sight-impaired persons, integrate them into society, and foster increased public awareness.

CONADIS, in collaboration with the Ministry of Economy and Finance, established during the year a Strategic Program Design in which municipalities were authorized, but not mandated, to use 0.05 percent of their budget for construction, repairs, or modifications that would improve accessibility to urban infrastructure, including municipal buildings. CONADIS also released suggestions for the incorporation of resources and expenses to address the rights of persons with disabilities during the planning and budgeting process of government agencies.

In 2009 MIMDES developed an Equal Opportunity for Disabled Persons Plan for 2009-18, meant to be a strategic plan across various government agencies, to promote the rights of persons with disabilities based on four fundamental pillars: health, employment, education, and social development. A multisectoral commission was created by executive decree to monitor and evaluate progress. According to comments by the Ombudsman's Office in December, the plan was insufficiently strategic, only involved four of the seven-plus targeted agencies, lacked a budget, and did not specify indicators for measuring progress. The monitoring and evaluation commission did not include representatives from organizations for persons with disabilities.

#### National/Racial/Ethnic Minorities

The law provides all citizens equality before the law and forbids discrimination on the basis of race, national origin, or language.

In actuality, however, the large minority of individuals of African (Afro-Peruvian) descent faced societal discrimination and prejudice. Afro-Peruvians generally did not hold leadership positions in government, business, or the military. Few Afro-Peruvians served as officers in the navy or the air force, although one Afro-Peruvian general officer worked in the presidential palace. Despite the law prohibiting the mention of race in job advertisements, NGOs alleged that employers often found ways to refuse hiring Afro-Peruvians or to relegate them to low-paying service positions. Employers often required applicants to submit photos.

Media often used stereotypes in portraying Afro-Peruvians. On April 7, a local television channel announced the suspension, but not the elimination, of the "Black Mama" character from its weekly humor show. This role long offended some viewers for its negative portrayal of the Afro-Peruvian community.

#### Indigenous People

The government did not provide sufficient resources to protect effectively the civil and political rights of indigenous persons, and indigenous communities continued to be politically, economically, and socially marginalized.

The constitution and the law provide that all citizens have the rights to use their own language before any authority by means of an interpreter and to speak their native language. Spanish and Quechua are official languages, but the government also recognizes 49 other indigenous languages. In Congress native speakers of Quechua conducted some debate in Quechua (translators were available for non-Quechua speakers). In August Congresswoman Hilaria Supa, a native Quechua speaker, became the chair of the Congressional Committee on Education. The National Program of Mobilization for Literacy continued teaching basic literacy and mathematics to poor men and women throughout the country. However, language barriers and inadequate infrastructure in indigenous communities impeded the full participation of indigenous persons in the political process.

Many indigenous persons lacked identity documents, since they did not have access to government offices or could not pay the necessary bribes to obtain them. Without identity cards, they were unable to exercise basic rights, such as voting and gaining access to health services and education. The infant mortality rate was higher in rural areas where most indigenous persons lived (27 deaths per 1,000 live births), compared with the rate in urban areas (17 deaths per 1,000 live births), a difference mainly related to the economic situation and low education of indigenous persons. Public health centers were located primarily in urban areas, but the government was in the process of expanding them to rural areas during the year and incorporating roving teams.

While the constitution recognizes that indigenous persons have the right to own land communally, indigenous groups often lacked legal title to demarcate the boundaries of their lands, making it difficult to resist encroachment by outsiders. By law local communities retain the right of unassignability, which should prevent the reassignment of indigenous land titles to nonindigenous tenants. However, some indigenous community members sold land to outsiders without the majority consent of their community. Moreover, in the absence of an effective representative institution, there were continuing societal conflicts between indigenous and nonindigenous persons, particularly concerning environmental issues and extractive industries.

Additionally, mineral or other subsoil rights belong to the state, a situation that often caused conflict between mining interests and indigenous communities. For example, the Pluspetrol oil company reported oil spills into rivers of the Loreto Region in June and September which sparked protests in Amazonian communities. A September 16 demonstration against the construction of a dam in the Majes Sigwas II project in Espinar Province, Cusco Region, resulted in casualties (see section 1.a.). On December 12, the Centauro mining company ceased operations due to protests by members of surrounding communities in Catac, Ancash Region.

Indigenous community representatives attributed the deadly June 2009 clashes in and around Bagua, Amazonas Region, between security forces and demonstrators who were demanding repeal of certain legislative decrees, in part to the government not consulting with indigenous community representatives prior to approval, as required by International Labor Organization (ILO) Convention 169 on Indigenous and Tribal Peoples (see section 1.d., Role of the Police and Security Apparatus). Four working groups established to address clash-related problems completed their tasks in December 2009. One of the groups led a series of consultative meetings during the year aimed at developing a new forestry law to replace the one that was repealed as a consequence of the clashes. On May 19, Congress approved a law requiring prior consultations with indigenous persons, including consultations on draft legislation affecting their communities. In June the president returned the law to Congress, maintaining among other objections that it awarded indigenous groups veto power over development projects; indigenous affairs experts did not agree with this conclusion. The Ombudsman's Office continued expressing support in October for the passage of the consultation law, and the law remained under congressional review at year's end.

On September 24, the newly created Ministry of Culture absorbed the ineffective National Institute for the Development of Andean, Amazonian, and Afro-Peruvian Peoples (INDEPA)--a government entity with the mission of formulating and adopting national development policies, programs, and projects. While the government maintained that funding for programs related to indigenous persons would triple under the new arrangement, a number of indigenous organizations stated that they feared the new entity would be limited to cultural matters and be less effective than INDEPA in protecting indigenous rights.

Many indigenous persons and those with indigenous physical features faced societal discrimination and prejudice. They were often the victims of derogatory comments and subjected to illegal discrimination in public places, including restaurants and clubs.

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

There are no laws specifically prohibiting discrimination against persons based on sexual orientation, and such discrimination occurred. Government authorities, including police, sometimes harassed and abused LGBT persons.

On March 29, a court handed down a four-year suspended sentence against two police members for not assisting a transsexual person who was beaten and injured by a gang.

The case of the January 2009 kidnap and alleged torture of a transgender woman, known as Techí, by members of a neighborhood-watch patrol remained at year's end in the Second Court of Tarapoto.

On July 10, a gay pride march occurred in Lima. By law organizers must inform the Interior Ministry of their intention to hold a public gathering. There were no impediments or incidents related to the march, and police provided sufficient protection.

There were some instances of official and societal discrimination based on sexual orientation in employment, housing, statelessness, and access to education or health care during the year.

The Constitutional Tribunal determined in December 2009 that homosexuality is not an impediment to entry into the armed forces or the police when it ordered the police academy to reinstate an expelled student. The Ministry of Interior Handbook of Human Rights Applied to the Civil Police stipulates that police must respect human rights, especially of the most vulnerable groups, and referred explicitly to the rights of lesbian, gay, and transvestite individuals.

#### Other Societal Violence or Discrimination

Persons with HIV/AIDS faced extensive discrimination and harassment.

The Ministry of Health executed policies to combat discrimination based on HIV/AIDS status, including a four-year plan to prevent and control HIV/AIDS. Some of these policies enjoyed success, such as the treatment of HIV/AIDS, but observers noted that education and prevention programs needed strengthening.

## Section 7 Worker Rights

### a. The Right of Association

The law provides for the right of association. Regulations allow workers to form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers are not required to seek authorization prior to forming a trade union; however, the minimum membership required by law to form a union is often prohibitively high. (There is a minimum of 20 employees for a workplace-level union and a minimum of 50 employees for a sector-wide union.) Employers may not prevent employment because of union membership. Judges, prosecutors, and members of the police and military are not permitted to form or join unions. According to the international NGO Solidarity Center, temporary workers may join the same unions as permanent workers but face nonrenewal of their contracts. More than 72 percent of the 10.6 million-member labor force worked in the informal sector. During the year the Ministry of Labor and Promotion of Employment (MOL) announced that the number of unions registered nationwide increased from 866 to 941 or approximately 8.7 percent.

Many businesses hired temporary or contract workers who were effectively barred from participating in those firms' unions. The law forbids businesses from hiring temporary workers to perform core company functions, requires businesses to monitor their contractors, and imposes liability on businesses for the actions of their contractors. However, employers circumvented these restrictions in a number of ways. Allegations of abuse of subcontracted workers in the areas of wage and hour violations and associational rights continued to be reported. Abuses occurred in a number of industries, including in the seafood processing and cannery industry. For example, at Conservera las Americas S.A. de Paita, Piura Region, more than 1,000 subcontracted workers did not receive wage and hour benefits determined by law, as documented by the union that represented them.

Regulations limited the associational rights of workers in nontraditional export sectors (fishing, wood and paper, nonmetallic minerals, jewelry, textile, and agroindustry). For example, Legislative Decree No. 728 sets out nine different categories of employment contracts under which workers can be hired in response to particular circumstances. These types of contracts include temporary, project, or seasonal ones, which typically dissuade workers from unionizing. The MOL reported that there were 2.5 million workers with contracts under Decree No. 728 in 2009. Another decree allows employers to hire workers on a series of short-term contracts without requiring that the workers be made permanent. There were approximately 268,000 workers employed in nontraditional export sectors nationally, according to the MOL.

There have been frustrated attempts at organization by temporary workers in nontraditional export sectors, such as palm oil production. For example, a group of employees in a palm oil processing plant in Santa Lucia did not initially complain about serious workplace matters that allegedly included health and safety problems and gender-based harassment due to fear of losing their employment contracts. However, during the year the workers began to organize and requested an MOL inspection. In October workplace inspectors supported the laborers' claims and insisted that the company directly hire 300 workers; the company did not comply, according to a Solidarity Center report. The company resisted the workers' decision to strike in December and cut off a number of resources, including food, normally provided to employees. At year's end the situation remained unresolved.

The constitution provides for the right to strike with certain limitations. Unions in essential public services, as determined by the government, must provide a sufficient number of workers during a strike to maintain operations. This level of employees is determined jointly by the union and labor authorities on an annual basis in the first trimester of the year. The law also requires strikers to notify the MOL before carrying out a job action.

During the year the government declared eight out of 119 strikes legal. According to labor leaders, permission to strike was difficult to obtain, in part because the MOL feared harming the economy. The MOL justified its decisions to deem a strike illegal by citing union failure to fulfill the legal requirements necessary to strike. The law allows unions to declare a strike in accordance with its own statutes and also allows nonunion workers to declare a strike with a majority vote, so long as the written act is notarized and announced at least five working days prior to a strike. Workers who strike legally retain avenues for reinstatement that illegal strikers lose. However, all workers retain legal protections during the administrative procedure period, which means, in practice, that workers may conduct short, illegal strikes of up to 14 days with protection of the law. Dismissal of striking workers and delays in reinstatement of these workers, in both legal and illegal strikes, are the main repercussions that employers utilized to dissuade workers from going on strike.

Despite improved laws that facilitate workers' calling of a legal strike, employers continued to dismiss workers for exercising the right to strike. Drawn-out judicial processes and lack of enforcement following strike-related dismissals, however, threatened to nullify such improvements. During the year a domestic NGO drew on MOL data and stated that 84 percent of strikes were based on unenforced decisions, collective bargaining, noncompliance with legal norms or collective bargaining agreements, and dismissals (both general and from antiunion animus) and 16 percent were based on wage issues.

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

The law recognizes the right of public and private sector workers to organize and bargain collectively but specifies that this right must be exercised in harmony with broader social objectives. A union must represent at least 20 workers to become an official collective bargaining agent. Union representatives have the right to participate in collective bargaining negotiations and establish negotiating timetables.

Significant delays in the collective bargaining process due to employers' lack of interest in concluding agreements proved to be a common obstacle to compliance with worker rights to bargain collectively. Public-sector employers--such as the drinking water company in Piura and Lambayeque regions, the electricity company in Ica Region, the Federico Villarreal National University in Lima, and the National Superintendency of Tax Administration in Lima--did not bargain according to established timelines, resulting in no agreements for workers in those sectors by year's end.

Although a conciliation and arbitration system exists, union officials complained that the high cost of arbitration made it difficult to use. Also, many companies refused to be bound by the decisions and appealed to the Constitutional Tribunal. Of the 639 registered collective bargaining agreement disputes in 2009, the MOL reported that 71 percent (454) were resolved that year: 398 by direct negotiation, 25 by conciliation, 24 by settlement, five by arbitration, and two by MOL administrative decision.

On January 15, Congress adopted a new labor procedure law (No. 29497) to improve the efficiency of resolving labor disputes. The new law, which entered into force on July 15 and whose implementation was not completed by year's end, requires that labor conflicts be resolved in less than six months, allows unions or their representatives to appear in court on behalf of workers, requires proceedings to be conducted orally and video-recorded, and relieves the employee from the burden of proving an employee/employer relationship. The law prohibits antiunion discrimination and other forms of employer intimidation, and workers fired for union activity have the right to reinstatement. However, the government did

not effectively enforce the new law, and employers engaged in antiunion practices. The International Trade Union Confederation (ITUC) noted in its 2009 annual report that the Law of Productivity and Competitiveness legalizes unfair dismissals by giving companies the right to fire employees without justification, if they offer severance pay fixed by law. The ITUC alleged that under this law employers pressured unionists to accept severance pay and threatened them with nonrenewal of contract.

In August labor unions, including the General Confederation of Workers of Peru (CGTP), reported the dismissal of more than 4,000 workers during the last four and a half years from a range of economic sectors for union-related activities. For example, Diamante factory, a fish-processing plant operating in Chancay and Pisco, dismissed unionized employees for reasons unrelated to work performance according to the CGTP.

There are no known special laws or exemptions from regular labor laws in export processing zones (EPZs), although in actuality businesses in the four EPZs had more legal flexibility in hiring temporary labor. According to the MOL, there is one recognized public-sector union with 122 members in one EPZ. All labor in the EPZs (estimated at no more than 500 workers) was subcontracted.

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

The law prohibits forced or compulsory labor, including labor by children; however, there were reports that such practices occurred. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The ILO estimated in 2006 that 20-40,000 individuals worked as forced laborers, primarily in the logging industry in two provinces in the Amazonas Region. The ILO Committee of Experts in 2008 observed that forced labor practices, including slavery and debt bondage, affected many workers from indigenous communities and called upon the government to take the necessary measures in law to criminalize and repress forced labor practices. At year's end the government's response was not known.

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

Laws exist to protect children from exploitation in the workplace and prohibit forced or compulsory labor; however, in practice child labor remained a serious problem, especially in the informal sector. The ILO estimated that during the year there were approximately 3.3 million working children in the country, with 70 percent (2.3 million) working in the worst forms of child labor. Child labor was a serious problem in informal sector activities of gold mining, brick and fireworks manufacturing; stone extraction; and the production of timber, Brazil nuts, and coca. According to the country's media reports, children worked in hazardous conditions, including approximately 141,000 on the streets, 101,000 at night, and 87,000 with trash. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The legal minimum age for employment is 14. However, children between the ages of 12 and 14 may work in certain jobs for up to four hours per day, and adolescents between ages 15 and 17 may work up to six hours per day, if they obtain special permission from the MOL and certify that they are attending school. In certain sectors of the economy, higher minimums were in force: age 15, in industrial, commercial, or mining; and age 16, in fishing.

On April 20, MIMDES published Decree No. 003-2010 that approved a list of the worst forms of child labor. This decree differed from its predecessor as the list may be modified as necessary. Specifically prohibited are a number of occupations considered hazardous for children, including working underground, lifting, or carrying heavy weights; accepting responsibility for the safety of others; or working at night. The law prohibits work that jeopardizes the health of children and adolescents; puts their physical, mental, and emotional development at risk; or prevents regular attendance at school.

The MOL Office of Labor Protection for Minors may issue permits authorizing persons under age 18 to work legally. During the year the MOL granted 520 such permits to children between ages 14 and 17. Parents must apply for the permits, and employers must have a permit on file to hire a child. In many cases the child worked alongside the parents in a family business, usually in areas and sectors identified above.

The MOL is responsible for enforcing child labor laws, and its inspectors may investigate reports of illegal child labor. The ministry stated that inspectors conducted routine visits without notice to areas where persons or organizations reported child labor problems. The government reported that it fined and suspended operations of firms that violated labor laws. From January through October, authorities fined 11 businesses 17,746 soles (approximately \$6,300) for hiring 14 minors illegally or without seeking the proper authorization.

Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. There were 412 labor inspectors (213 in Lima) whose inspections focused on the formal sector.

The Office of the Ombudsman for Children and Adolescents (DEMUNA) worked with the MOL to document complaints regarding violations of child labor laws. There were more than 1,000 DEMUNA offices in municipalities throughout the country. DEMUNA also operated a decentralized child labor reporting and tracking system. MIMDES administered a program that sent specialized teachers to the streets to provide education and support to minors involved in begging and other kinds of work. The MOL instituted several programs aimed at improving access to legal work for youth, including the ProCerti and ProJoven programs to educate youth regarding, respectively, their rights to work and training in a variety of employable skills.

#### e. Acceptable Conditions of Work

In November the statutory monthly minimum wage was increased from 550 soles (approximately \$196) to 600 soles (\$215), an amount that did not provide a decent standard of living for many families. The government estimated the poverty line to be approximately 257 soles (\$92) a month per person, although it varied by region. The MOL enforced the minimum wage only in the formal sector, which employed approximately 30 percent of the labor force, and many workers in the unregulated informal sector, most of whom were self-employed, received less.

The law provides for a 48-hour workweek and one day of rest and requires companies to pay overtime for more than eight hours of work per day and additional compensation for work at night. Labor, business, and the government reported that the majority of companies in the formal sector generally complied with the law.

A decree defines acts of discrimination against domestic workers. Employers frequently required long hours from domestic workers and paid low wages. During the year the MOL launched an extensive campaign to inform domestic workers of their rights.

Although occupational health and safety standards exist, the government often did not devote sufficient personnel, technical, and financial resources to enforce them. Labor sources claimed that many inspectors were forced to pay for transportation to sites and were often harassed or refused entry by businesses. Many fines went uncollected, in part because the MOL lacked an efficient tracking system and at times due to a lack of political will, according to a local labor NGO.

According to the MOL, its inspectors conducted 46,355 visits to worksites for the purposes of orientation (10.7 percent) and inspection (89.3 percent) in 2009. Through October the MOL levied approximately 12 million soles (\$4.2 million) in fines on 2,089 companies for failure to place employees on labor rolls and health and safety violations.

The National Federation of Mineworkers reported that 61 miners died in mining accidents in the formal mining sector during the year, mainly as a result of rockslides, falls, and asphyxiation.

In cases of industrial accidents, an agreement between the employer and worker usually determined compensation. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. The law did not provide workers the right to remove themselves from potentially dangerous situations without jeopardizing employment.

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