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2010 Human Rights Report: Uruguay

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

April 8, 2011

The Oriental Republic of Uruguay, with a population of approximately 3.4 million, is a constitutional republic with an elected president and a bicameral legislature. In November 2009 in a free and fair runoff election, Jose Mujica won a five-year presidential term and a majority in parliament. Mujica entered office on March 1. Uruguay has a multiparty electoral system with three major parties. Security forces reported to civilian authorities.

Principal human rights abuses included severe overcrowding, inhuman conditions, and disrepair in the prison system; violence against women; and trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed any politically motivated killings; however, police killed one person.

In September the government moved to prosecute a police officer for homicide and three police officers for concealment after killing a 23 year-old man who fled instead of complying with an order to stop his vehicle. Authorities accused the officers of justifying their actions by leaving a firearm on the passenger seat of the victim's vehicle to make it appear that they had been attacked.

There was no information available about the case of the police chief and three police officers who faced trial in connection with the 2008 strangulation death of a detainee.

The government continued to investigate the serious human rights violations committed during the 1973-85 military dictatorship. In 2009 a judge sentenced former military dictator Gregorio Alvarez to 25 years of prison for his role in

aggravated homicides and disappearances. An appeals court confirmed this sentence in August and, in November, ruled that amnesty was unconstitutional in a number of cases involving human rights violations during the dictatorship.

In February a court convicted and sentenced Juan Maria Bordaberry, the democratically elected president in office during the first years of the military rule, to 30 years in prison for the same crimes. Alvarez was serving his sentence in a military prison, and Bordaberry was under house arrest due to poor health.

In November General Miguel Dalmao and Colonel Jose Chialanza were prosecuted on the charge of aggravated homicide and sent to prison pending trial for their complicity in the death of Nibia Sabalsagaray. Sabalsagaray died from torture during the military dictatorship in 1974. Dalmao was the first active-duty military officer prosecuted for human rights violations in the country.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison conditions continued to be poor, as the government did not adequately maintain aging facilities and provided insufficient resources for the prison system.

Overcrowding was a significant problem despite the government's efforts to build more prison facilities. According to government figures, the total prisoner population as of August 31 exceeded design capacity by 1,976 prisoners, or 29 percent (the prison ombudsman's 2009 report defined 20 percent overcrowding as "critical"). Additionally, many necessities were lacking and many prisoners depended on visitors for enough food to reach the daily minimum caloric intake.

Prisoner-on-prisoner violence continued to be a daily problem, partially due to the lack of a separate, high-security prison for violent criminals. A high percentage of prisoners reportedly used drugs.

Fire hazards and violence continued to plague the prison system. In 2009 there were 39 deaths due to violence, and fires in prisons were reported. In July a cell fire killed 12 prisoners in Rocha Province. In August 5 prisoners perished in a cell fire in Comcar Prison in Montevideo. The fires started due to handcrafted heaters that set makeshift partitions on fire. Initial investigations revealed that fire extinguishers were not adequately maintained in both facilities.

In general overcrowding and understaffing in some facilities resulted in problems related to sanitation, ventilation, temperature, lighting, access to potable water, and health. Supervision of medical care moved to the Ministry of Public Health, which implemented a pilot system in July to provide basic and emergency medical care to a prison in rural Montevideo that housed 3,000 inmates. An Anti-Tuberculosis Commission report confirmed 81 cases of tuberculosis in the prison population in 2009.

The General Assembly elects a prison system ombudsman who is responsible for monitoring and reporting to parliament on prison conditions in the nation's 29 detention centers. This ombudsman receives complaints from prisoners and may present reports and recommendations but may not act on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding. The ombudsman's report does not improve pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum

sentence for the charged offense. The ombudsman is mandated by parliament to present an annual report with his observations and recommendations. The separation of powers makes his conclusions valuable but not mandatory to the judiciary.

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Government figures from the end of August recorded that there were 8,091 male and 692 female prisoners, of whom 34 percent had been sentenced, while 66 percent were awaiting trial. Pretrial detainees and convicted criminals were held together, but female and male prisoners were held in separate facilities. During the year, 32 children lived in prison facilities with their inmate mothers.

The Uruguayan Institute for Adolescents and Children (INAU), which supervises juvenile detention and is tasked with protecting abandoned and orphaned children under age 18, also operated institutions to hold minor detainees. Juveniles who committed serious crimes were incarcerated in juvenile detention centers, which resembled traditional jails and had cells. In September INAU reported 310 juveniles were incarcerated. Conditions in some of these facilities were similar to adult versions, and conditions in others worsened and security was tightened because of frequent escape attempts. Male juvenile delinquents were held in a central processing detention center in Montevideo for up to 60 days before their sentencing. Independent prison observers reported that this detention center suffered chronic overcrowding, often with 10 adolescents living in a cell designed for six. Additionally, these observers reported that some high-security juvenile delinquents were often held in cells with no access to natural light or fresh air. Female juvenile criminals were processed and held in separate detention centers. Most incarcerated juveniles did not receive formal education; however, some detention centers allowed the youth to receive vocational training. The prison system ombudsman cannot address the status and circumstances of confinement of juvenile offenders.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. The government permitted general prison visits by independent human rights observers, nongovernmental organizations (NGOs), religious congregations, and foreign diplomats, and such visits occurred during the year. In March 2009 a UN special rapporteur on torture issued a report on the inhumane and degrading conditions of the prison system. In response the government made prison reforms a priority.

The government investigated and monitored prison and detention center conditions. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. There were no reported complaints of police abuse in prisons during the year, which some observers attributed to fear of reprisals from prison staff; however, the prison ombudsman received unofficial reports of maltreatment. Authorities investigated credible allegations of inhumane conditions. The results were documented by the Ministry of the Interior but were not public record.

In April the government inaugurated "El Molino," a detention center for 30 female prisoners with children. INAU offered kindergarten services to these children, and their mothers received education and training for their reinsertion into society. Inmates and their children received adequate health services.

In June the government created the Oficina de Supervision de Libertad Asistida (OSLA), a bureau within the National Directorate of Prisons. OSLA police officers monitor criminals who receive alternative sentences to perform community service work. OSLA officers are required to prepare individual profiles on the inmates based on psychological, social, legal, and labor records and to supervise their sentence term outside prison.

Despite outlining many concerns, the prison ombudsman's report for the year identified some positive practices. The report highlighted an increase in prisoners in open prisons ("chacras") in each province, where the detainees were involved in maintaining small land holdings: the continuation of a successful clinic in one of the country's largest prisons;

and advances in providing primary education to inmates. Government figures reported that 45 percent of prisoners in the 29 detention centers study or work.

In September the government enacted a law modifying the system of temporary releases (*salidas transitorias*). The law allows judges to grant up to a 72-hour weekly release for prisoners with a good record of conduct to work or study in the custody of and accompanied by a police officer wearing street clothes. According to the law, prisoners may choose a family member or an individual, instead of a police officer, as legal assurance of their compliance with the activities performed outside the detention center.

The government accelerated and amplified its program to ease the chronic overcrowding. On July 15, it enacted an emergency law to allow for a one-time budget allotment of 15 million pesos (\$750,000) to build additional facilities and refurbish existing ones, expanding the capacity of the total prison system by 2,550 places; to purchase or rent facilities to redistribute prisoners; to purchase the necessary equipment to improve food, hygiene, and health conditions; to use military facilities to relocate prisoners; and to hire 1,500 prison guards and technical staff (psychologists, psychiatrists, and teachers). In order to comply with the plan of action, the law simplified bureaucratic procedures until December 31. By year's end, the emergency law resulted in roughly 500 additional spaces in the prison system, and applications for 800 new technical staff and prison guards were processed. The government opened a special link in its Web page to post prison condition updates in order to increase transparency.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The law requires police to have a written warrant issued by a judge before making an arrest except when police apprehend the accused during commission of a crime, and authorities generally respected this provision in practice.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the national police, and 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.

The Ministry of the Interior's Directorate of Internal Affairs operated a hotline for complaints of police abuse. The directorate received 1,232 complaints of police abuse during the year.

Arrest Procedures and Treatment While in Detention

Persons were apprehended openly with warrants based on sufficient evidence, issued by a duly authorized official, and brought before an independent judiciary. The law provides detainees with the right to a prompt judicial determination of the legality of detention and requires that the detaining authority explain the legal grounds for the detention. Police may hold a detainee *incommunicado* for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. The law stipulates that confessions obtained by police prior to a detainee's appearance before a judge and attorney (without police present) are not valid. A judge must investigate any detainee's claim of mistreatment. A lawyer assigned to each police station reports to the Ministry of the Interior concerning the treatment of detainees.

For a detainee who cannot afford a lawyer, the court appoints a public defender at no cost to the detainee. Judges rarely granted bail for persons accused of crimes punishable by at least two years in prison. Most persons facing lesser charges were not jailed. Detainees were allowed prompt access to family members. Some detainees spend years in jail awaiting trial, and the uncertainty and length of detention contributed to tensions and psychological stress in the prisons. Trial delays were caused by lengthy legal procedures, large numbers of detainees, and staff shortages.

e. Denial of Fair Public Trial

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

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants enjoy a presumption of innocence. Juries are not used; trial proceedings usually consist of written arguments to the judge, which normally are not made public. Defendants have the right to consult an attorney in a timely manner, and those that do not have an attorney are provided one at the state's expense. Only the judge, prosecutor, and defense attorney have access to all documents that form part of the written record. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. Individual judges may elect to hear oral arguments, but most judges choose the written method, a major factor slowing the judicial process. Criminal trials are held in a circuit court. Defendants have a right of appeal. The law extends these rights to all citizens.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There are transparent administrative procedures to handle complaints of abuse against government agents. An independent and impartial judiciary handled civil disputes, but its decisions were ineffectively enforced. Local police lacked the training and work force to enforce restraining orders, which often were generated during civil disputes.

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

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

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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

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.

The International Telecommunication Union reported that in 2009 Internet penetration in Uruguay was 38 percent. Internet access was widely available and used by citizens; many restaurants, cafes, and public areas had free WiFi access.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

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

c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at 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 cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) 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 provides that in extreme cases of national emergency, an individual may be given the option to leave the country as an alternative to trial or imprisonment, but this option has not been exercised in at least two decades.

Protection of Refugees

The laws provide for the granting of refugee status, and the government has established a system for providing protection to refugees. The government granted refugee status and grants asylum only for political crimes as set forth in the 1928 Treaty of Havana, the 1889 Treaty of Montevideo, and the 1954 Caracas Convention. In 2009 the government signed a UNHCR framework agreement to accept 15 additional refugees per year. The NGO Servicio Ecumenico Para la Dignidad Humana, a member of the National Refugee Committee and a UNHCR partner, reported that there are 174 refugees in the country. During the year the government accepted 10 Colombians resettled from Ecuador under the "Plan de Reasentamiento Solidario de Mexico de 2004." While the government received nine refugee applications through the normal UNHCR process, it granted refugee status to only one.

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. In conjunction with UNHCR, the government supported repatriation of refugees upon request of the individual.

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

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

Elections and Political Participation

In November 2009 Jose Mujica of the incumbent Frente Amplio (Broad Front) coalition won a five-year presidential term in a free and fair runoff election. The runoff followed a series of party primaries in June 2009 and a free and fair first-round election among the four leading parties in October 2009. President Mujica took office on March 1.

In parliamentary elections in October 2009, the Frente Amplio won 16 of 30 seats in the Senate and 50 of 99 seats in the House of Representatives.

Political parties operated without restrictions or outside interference.

Women participated actively in the political process and government, although primarily at lower and middle levels. Four senators and 12 representatives are women. Two of the 13 cabinet ministers are women.

There were no members of minorities in parliament. There was one member of a minority in the cabinet.

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 some formal and informal reports of police corruption, which authorities addressed with appropriate legal action. In July a scandal involving fraudulent purchases in the Navy was widely reported. The investigation continued and many high-ranking Navy officials stepped down and/or were criminally charged.

Public officials are subject to financial disclosure laws. A government commission on economic and financial matters collects sworn financial statements from public servants, including the president.

Although there is no general public disclosure law, the government requires all government agencies to produce regular public reports. All agencies complied with these reporting requirements.

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 were generally cooperative and responsive to their views.

In September the UN special rapporteur on trafficking in persons visited the country. She recommended that the government support more in-depth statistical research, increase campaigns to raise awareness, and train more government, law enforcement, and judiciary officials.

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 generally enforced these prohibitions effectively, although societal discrimination against some groups persisted.

The Commission Against Racism, Xenophobia, and All Forms of Discrimination, headed by the Ministry of Education and Culture's director of human rights and including government, religious, and civil society representatives, proposes policies and specific measures to prevent and combat racism, xenophobia, and discrimination. Since its creation in 2007, the commission investigated 70 claims from Afro-Uruguayans, persons with disabilities, and lesbian, gay, bisexual, and transgender (LGBT) persons. There were five cases brought to the commission's attention during the year, only one of which it referred for legal action. The commission considered the other cases not valid for its action or handled them through mediation or other means.

Women

The law criminalizes rape, including spousal rape. The law allows for sentences of two to 12 years' imprisonment for a person found guilty of rape. According to Ministry of Interior statistics, between January and December there were 227 cases of rape and 84 cases of attempted rape.

The Ministry of Interior believed that some victims of spousal rape did not report such incidents because of failure to understand their rights and fear of social stigma.

The Ministry of Interior reported 11,255 cases of domestic violence of which 35 cases resulted in murder. The law allows for sentences of six months to two years in prison for a person found guilty of committing an act of violence or making continued threats to cause bodily injury to persons related emotionally or legally to the perpetrator. Civil courts decided most of the domestic cases during the year. Judges in these cases often issued restraining orders, which were difficult to enforce. In many instances, courts did not apply criminal penalties.

In October the government approved the creation of domestic violence units in police headquarters in the interior. Human resources and budget assignments are allotted by taking into account the prevalence of domestic violence in each region.

Additionally, representatives of the Uruguayan Network against Domestic and Sexual Violence formally denounced the government at the Human Rights Committee of the Organization of American States for failing to protect women who die in the country as victims of domestic violence, despite having presented formal complaints and often receiving restraining orders or other preventive measures ruled by the judiciary. The network represented 34 NGOs in the country.

The Montevideo municipal government funded a free nation-wide hotline operated by trained NGO employees for victims of domestic violence. The Ministry of Social Development, INAU, and NGOs operated shelters in which abused women and their families could seek temporary refuge.

The law prohibits sexual harassment in the workplace and punishes it by fines or dismissal. The law establishes guidelines for the prevention of sexual harassment in the workplace and in student-professor relations and defines a system of damages for victims.

Couples and individuals had the right to decide freely and responsibly the number, spacing, and timing of their children and had the information and means to do so free from discrimination, coercion, and violence. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. The Population Reference Bureau reported contraceptive use of 75 percent among married women. The UN Population Fund reported in 2008 that the maternal mortality ratio was 27 deaths per 100,000 live births. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Under the law, women enjoy the same rights as men, including rights under family and property law. However, they faced discrimination stemming from traditional attitudes and practices, and no gender discrimination cases have ever been litigated. The law declares a state interest in gender equality and decrees the creation of the National Plan for Equal Rights and Opportunity. The National Institute for Women supervised the work of a Tripartite Committee on Equal Opportunities and Employment, which includes a subcommittee on gender consideration in salaries and benefits. There was some segregation by gender in the workforce. Women constituted almost half of the workforce but tended to be concentrated in lower-paying jobs, with salaries averaging two-thirds those of men.

Children

Citizenship is derived by birth within the country's territory or through one's parents. The government immediately registers all births.

There were few reports of physical or sexual child abuse.

Some minors engaged in prostitution and forced labor. INAU found that they sometimes did so at the request of their families to increase income. The minimum age for consensual sex is 12 years old. When a sexual union takes place with a minor under the age of 15, violence is presumed and statutory rape laws, which carry a penalty of two to 12 years in prison, can be applied. However, minors between the age of 12 and 15 can legally agree to consensual sex; if they consent, any presumed violence is waived. Penalties for pimping children range from four to 16 years in prison. Child

pornography is illegal, and penalties range from one to two years in prison. The International Criminal Police Organization (INTERPOL) continued to uncover child pornography material produced in the country and available on the Internet through servers located in central Europe. Interpol and the Ministry of Interior authorities responded promptly to one child pornography case that became known in June. The authorities, working with information received from UK law enforcement officials via INTERPOL, tracked down a computer server where child pornography was stored. Authorities arrested the producer of the pornography and prosecuted him under the child pornography law.

INAU provided funding for a number of NGOs that had programs to assist at-risk children, as well as victims of domestic violence and sexual exploitation. Assistance to trafficking victims was provided on a case-by-case basis. The Integral System to Protect Children and Adolescents Against Violence, an interagency workgroup that provided training and awareness-raising campaigns and promoted legislative advancements for the protection of children and adolescents, operated 10 centers to provide assistance to victims of child abuse.

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 the Compliance with the Hague Convention on the Civil Aspects of International Child Abduction* at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

Jewish community leaders reported that government officials and society generally respected members of their community, which numbered approximately 18,000 to 20,000 according to the Jewish Central Committee. Jewish leaders reported effective cooperation with police investigating incidents of anti-Semitism.

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.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities, but the government did not effectively enforce these provisions. Local entities did not devote resources to provide appropriate accommodations. Persons with disabilities reported discrimination in employment despite government efforts to assist in individual cases. The government did not discriminate against persons with disabilities but did not provide sufficient services such as transportation, which inhibited some persons from accessing these services.

The Uruguayan Institute for Educational Psychology reported that school-age children with disabilities, such as blindness or Down's syndrome, received specially adapted laptops under Plan Ceibal (one laptop per child).

A national disabilities commission oversees implementation of a law on the rights of persons with disabilities. The law mandating accessibility for persons with disabilities to new buildings or public services was not consistently enforced. The law reserves 4 percent of public sector jobs for persons with physical and mental disabilities, but the quota went unfilled.

National/Racial/Ethnic Minorities

The country's Afro-Uruguayan minority continued to face societal discrimination. A National Bureau of Statistics study stated that Afro-Uruguayans are 10 percent of the population and indigenous descendants constituted another 3 percent. A July 2009 study concluded that 43 percent of Afro-Uruguayans were poor, with 5 percent living in extreme poverty. The study concluded that race is one of the factors responsible for socioeconomic inequality in the country. The NGO Mundo

Afro stated that the percentage of Afro-Uruguayans working as unskilled laborers was much larger than for members of other groups in society, despite equivalent levels of education. Afro-Uruguayans were underrepresented throughout government and academia and in the middle and upper echelons of private-sector firms.

The government did not fully implement initiatives to increase visibility and improve communication amongst the Afro-Uruguayan community. For example, Mundo Afro appointed advisors to each ministry, but these advisors have had extremely limited roles and do not receive financial support. The government did support the creation of a commission to draft the first National Plan Against Racism and Discrimination. The government also continued its outreach to the Afro-Uruguayan community for participation in the Quijano Scholarship Program for postgraduate work. Afro-Uruguayan community representatives, however, sought programs focused more on undergraduate education, noting that only 1 percent of Afro-Uruguayans attend college. For the last two years, the National Police Academy has included discrimination awareness training as part of its curriculum.

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

No laws criminalize sexual orientation, and authorities widely protected the rights of the LGBT community. The LGBT community benefits from many rights, specifically, the right to civil union for same-sex couples, the right for same-sex couples to adopt, and the right for transgender individuals to change their gender. However, the technical commission that reviews applicants who want to formally request a change of gender has not yet been formed; therefore, the right for transgender individuals to change their gender exists only in theory and not in practice.

In September the LGBT community joined with other civil rights and gender-rights groups in an annual "Diversity March," which drew nearly 10,000 participants. Police generally afforded protection to the LGBT community. Hate crimes were rare, but there were isolated reports of street violence against individuals leaving gay bars; the police did not intervene in these incidents. There were occasional reports of nonviolent societal discrimination based on sexual orientation and gender identity.

Other Societal Violence or Discrimination

There were isolated reports of societal discrimination against persons with HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

The constitution grants the right of association, and the law promotes organization of trade unions, creation of arbitration bodies, and protects union leaders and negotiators from workplace discrimination. Unions traditionally organized and operated free of government regulation. Civil servants, employees of state-run enterprises, and private-enterprise workers may join unions. Legal foreign workers may join unions.

Unionization was higher in the public sector (more than 42 percent) than in the private sector (approximately 10 percent). Agricultural workers are not formally represented within the national labor union system.

The constitution provides workers with the right to strike, and workers exercised this right in practice.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right. The law also protects collective bargaining, and it was freely practiced.

Collective bargaining between companies and their unions determines a number of private-sector salaries. The executive branch, acting independently, determines public-sector salaries.

The law regulates collective bargaining and grants the government a large role in adjudicating labor disputes. A Superior Tripartite Council is made up of 21 officials: nine from the executive branch of government, six from the business community, and six from organized labor. This council administers the salary councils and has authority to make determinations related to labor negotiations. The law also designates trade unions to negotiate on behalf of workers whose companies are not unionized.

The law expressly prohibits antiunion discrimination and requires employers to reinstate workers fired for union activities and pay an indemnity to such workers. The Ministry of Labor's Collective Bargaining Division investigates antiunion discrimination claims filed by union members. There were generally effective mechanisms for resolving workers' complaints against employers. In February a new law (No. 18.572) that shortened procedures for resolving disputes went into effect. An employer is informed in advance of the reason for the claim and the alleged amount owed to the worker. However, articles of the law have been deemed unconstitutional by the Supreme Court of Justice and, in practice, the processes to resolve disputes have not been shortened.

All labor legislation fully covers workers employed in the 12 free trade zones. No unions operated in these zones, but the government did not prohibit their formation.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that some child labor occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law protects children against exploitation in the workplace, including a prohibition of forced or compulsory labor. The Ministry of Labor and Social Security is responsible for enforcing it. Enforcement was difficult due to a lack of resources and because most child labor occurred in the informal sector. The government's National Committee for the Eradication of Child Labor estimated that 8 percent of children and adolescents between the ages of eight and 17 years old worked. Some children worked as street vendors in the informal sector or in agricultural activities; these were areas generally less strictly regulated and in which pay was lower than in the formal sector. There were isolated reports of parents transferring their children to third parties for domestic service or agricultural work in exchange for food and lodging.

The law prohibits minors under the age of 15 from working, and this was generally enforced in practice. Minors between the ages of 15 and 18 require government permission to work and must undergo physical exams to identify possible exposure to job-related physical harm. Permits are not granted for hazardous or fatiguing work. Children between the ages of 15 and 18 may not work more than six hours per day within a 36-hour workweek and may not work between 10 p.m. and 6 a.m.

Violations of child labor laws are generally punishable by fines but may extend to imprisonment of three months to four years.

INAU implemented policies to prevent and regulate child labor and provided training on child labor issues. INAU also worked closely with the Ministry of Labor and Social Security to investigate complaints of child labor and with the Ministry of Interior to prosecute cases. INAU had five trained inspectors to handle an estimated 1,250 inspections per year.

e. Acceptable Conditions of Work

The Ministry of Labor and Social Security enforces a legislated minimum monthly wage that covers both the public and private sectors. The ministry adjusts the minimum wage whenever public sector wages are adjusted. The monthly minimum wage of 4,799 pesos (approximately \$240) functioned more as an index for calculating wage rates than as a true measure of minimum subsistence levels; it did not provide a decent standard of living for a worker and family. The vast majority of workers earned more than the minimum wage. While there are no known mechanisms for enforcement, observers believed companies generally complied with the regulations.

The standard workweek ranged from 44 to 48 hours, depending on the industry, and employers were required to give workers a 36-hour block of free time each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours, entitles workers to 20 days of paid vacation after a year of employment, and prohibits compulsory overtime beyond a maximum 50-hour workweek.

The law protects foreign workers and does not discriminate against them, but official protection requires the companies to report the foreign workers as employees. Many citizens and foreign workers were employed informally and thus did not benefit from certain legal protections.

The Ministry of Labor and Social Security enforced legislation regulating health and safety conditions in a generally effective manner. However, some of the regulations cover urban industrial workers more adequately than rural and agricultural workers. Workers have the right to remove themselves from what they consider hazardous or dangerous conditions without jeopardy to their employment; the government effectively upheld this right, although some workers claimed a subsequent loss of other privileges at work based on their refusal to work in unsafe conditions.

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