

CHILE 2021 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Chile is a constitutional multiparty democracy. On November 21, the country held presidential elections and concurrent legislative elections that observers considered free and fair. President-elect Gabriel Boric won a runoff election on December 19 and was to take office March 11, 2022.

The Carabineros (national uniformed police) and the Investigative Police have legal responsibility for law enforcement and maintenance of order, including migration and border enforcement, within the country. The Ministry of the Interior and Public Security oversees both forces. Civilian authorities generally maintained effective control over the security forces. There were credible reports that members of the security forces committed abuses.

Significant human rights issues included credible reports of: arbitrary or unlawful killings; cruel, inhuman, and degrading treatment by law enforcement officers; violence against indigenous persons; trafficking in persons; and violence against lesbian, gay, bisexual, transgender, queer, and intersex persons.

The government took steps to identify, investigate, prosecute, and punish officials who committed human rights abuses and corruption.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were isolated reports that the government or its agents committed arbitrary or unlawful killings. On February 5, in Panguipulli, Los Rios Region, police shot and killed a street juggler who allegedly refused to participate in an identity check. The police officer claimed he used his weapon in legitimate self-defense. The incident sparked violent protests, including arson attacks against several municipal buildings. Prosecutors charged the officer with homicide. A hearing was scheduled for December 17 to review the investigation.

On October 18, a man died while in the custody of Carabineros at a police station in San Fernando, in the O'Higgins Region. According to the National Institute of Human Rights (INDH), Carabineros allegedly strangled the man and left him unconscious in his cell. The INDH brought a criminal complaint, and prosecutors charged the police officer allegedly responsible for abuse resulting in death. The officer was fired and placed in pretrial detention.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

Although the constitution and law prohibit such practices, there were occasional reports of excessive force, abuse, and degrading treatment by law enforcement officers or members of military patrols deployed during the State of Catastrophe declared due to the COVID-19 pandemic.

On May 24, prosecutors arrested and charged nine members of the army with torturing five individuals in October 2020, citing the specific article in the criminal code that defines torture as intentionally inflicting serious pain or suffering with the aim to intimidate, coerce, punish, or reduce the willpower of a victim. The soldiers allegedly detained and bound the victims during the COVID-19 curfew, drove them to a forest, beat them, and simulated an execution. At the end of the year, the case was open, and the soldiers remained in pretrial detention.

In August 2020 prosecutors arrested and charged the police officer who shot Gustavo Gatica with a riot-control shotgun in November 2019, blinding Gatica in both eyes. As of December 6, the case against the officer remained open. On September 20, the government issued an update to regulations on the use of force by security forces in public-protest situations, with input from the INDH and the National Defender for Children's Rights, to incorporate preventive measures and dialogue during peaceful protests to protect the right of freedom of assembly.

Human rights groups reported that impunity was a problem in the security forces, especially the Carabineros. The Investigative Police (PDI) and Public Prosecutor's

Office investigate whether security force killings were justifiable, and they pursue prosecutions in cases of alleged unlawful killings. The INDH, an independent government authority that monitors complaints and allegations of abuse, may file civil rights cases alleging arbitrary killings. As of November 12, the National Prosecutor's Office reported that 3,433 investigations into abuses committed by law enforcement agents during 2019-20 protests remained open and that it had formally charged 153 members of the security forces. By November, 14 individuals, all Carabineros, were convicted. According to human rights observers, the slow pace and small number of prosecutions relative to the number of accusations stemming from the social unrest created a perception that those accused of abuses did not face effective accountability. The government increased training for Carabineros on crowd control techniques and human rights.

Prison and Detention Center Conditions

According to the INDH and other observers, conditions in some prisons were poor due to antiquated infrastructure, overcrowding, substandard sanitary infrastructure, and inadequate water supplies. Human rights organizations reported that violence and abuse occurred in prisons.

Physical Conditions: The prison population was unevenly distributed across the prison system, with approximately 50 percent of prisons operating beyond maximum capacity, while others were underpopulated. Overpopulation and inadequate facilities frequently led to comingling of pretrial detainees and convicted prisoners. The INDH reported that prisoners were often confined to their cells for most of the day, a practice that did not allow sufficient time for exercise or participation in rehabilitation and readjustment programs. On September 2, the INDH filed a protective measure for prisoners of the Araucania Region's Pitrufquen Detention Center who had no overnight access to sanitary facilities in their cells.

Prisoner and human rights groups investigated alleged abuse and use of excessive force against detainees, and media covered some of the allegations. On September 15, prosecutors accused a prison guard of sexually abusing a female suspect while she was being transported from her detention control hearing to pretrial detention. As of October 29, the guard was in pretrial detention and an investigation was

pending.

Administration: Independent government authorities, including the INDH, generally investigated credible allegations of mistreatment. The government usually monitored and investigated prison and detention center conditions.

Independent Monitoring: The government permitted prison visits by independent human rights observers, and such visits took place at both government and privately operated facilities.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government did not always observe these requirements. On January 28, the Temuco Appellate Court accepted a protective measure brought by the INDH on behalf of a seven-year-old girl who was arbitrarily detained by the PDI on January 7. The court instructed the PDI to refrain from arbitrary and illegal actions against this or other minors.

Arrest Procedures and Treatment of Detainees

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

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

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

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

e. Denial of Fair Public Trial

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

Trial Procedures

The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced that right.

Defendants enjoy a presumption of innocence and have a right of appeal. They have the right to be informed promptly of charges, to have time to prepare their defense, and not to be compelled to testify or admit guilt. Three-judge panels form the court of first instance. The process is oral and adversarial. Defendants have the right to be present and consult with an attorney in a timely manner. Judges rule on guilt and dictate sentences. Defendants have the right to free assistance from an interpreter. Court records, rulings, and findings were generally accessible to the public.

The law provides for the right to legal counsel. Public defenders' offices across the country provided professional legal counsel to anyone seeking such assistance. When human rights organizations or family members requested assistance, the nongovernmental organization (NGO) Corporation for the Promotion and Defense of the Rights of the People and other lawyers working pro bono assisted detainees during interrogation and trial. Defendants may confront or question adverse witnesses and present witnesses and evidence on their behalf, although the law provides for unidentified witnesses to testify in secret in certain circumstances.

For crimes committed prior to the implementation of the 2005 judicial reforms,

criminal proceedings are inquisitorial rather than adversarial. Human rights violations committed during the 1973-90 military dictatorship are investigated under inquisitorial proceedings and prosecuted by appellate justices supported by the judiciary's Office for Coordination on Grave Human Rights Violations Cases.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

In civil matters there is an independent and impartial judiciary that permits individuals to seek civil remedies for human rights violations. The civil justice system retained antiquated and inefficient procedures, which resulted in civil trials lasting years, sometimes decades. Administrative and judicial remedies are available for alleged wrongs. Individuals and organizations may appeal adverse domestic decisions domestically or to regional human rights bodies. Cases involving violations of an individual's human rights may be submitted through petitions by individuals or organizations to the Inter-American Commission on Human Rights. The commission may submit the case to the Inter-American Court of Human Rights, which in turn may order civil remedies, including fair compensation to the injured individual.

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

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution provides for freedom of expression, including for members of the press and other media, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political

system combined to promote freedom of expression, including for members of the media.

Violence and Harassment: On July 7, PDI agents allegedly targeted journalists Vicente Rojas Lopez and Felipe Garcia with rubber bullets during a disturbance while Lopez and Garcia were covering the funeral procession of activist Luisa Toledo Sepulveda that passed in front of PDI headquarters in Santiago. No formal investigation was opened.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, and the government generally respected those rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation; and the government generally respected these rights.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

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

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees, including access to education and health care.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The country held concurrent presidential and legislative elections on November 21, which observers considered free and fair. On December 19, in free and fair elections, voters chose Gabriel Boric, who was to take office on March 11, 2022.

On May 15-16, voters elected 155 members of the constitutional convention and voted for regional governors, mayors, and municipal councilors. The country held runoff elections for governors on June 13 and official presidential primaries on July 18. Observers considered the elections free and fair.

The constitutional convention began on July 4 and was scheduled to conclude by July 2022. Delegates elected Mapuche indigenous rights activist Elisa Loncon as president. On October 7, the convention approved four main statutes covering general regulations, ethics, indigenous participation and consultation, and citizen participation. Convention rules prohibit denial of crimes against humanity committed during the Pinochet regime and alleged human rights abuses during the 2019 civil unrest. Rules also established nonbinding indigenous consultations requiring the country “to recognize, specify, respect, promote, protect, and

guarantee all its obligations with the different preexisting indigenous peoples and nations, all of which emanate from subscribed international obligations.”

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they did participate. The rules for the election in May of members for the constitutional convention stipulated gender parity and, from a total of 155 seats, included 17 seats reserved for representatives of indigenous groups. The Mapuche minority group, which represents approximately 13 percent of the population, has historically been underrepresented in government.

Section 4. Corruption and Lack of Transparency in Government

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

Corruption: On July 26, the former mayor of the San Ramon municipality, Miguel Angel Aguilera, was accused of repeated bribery, illicit enrichment, and money laundering and was placed in pretrial detention. The case was under investigation at year’s end.

Prosecutors brought charges against former army officials accused of corruption. In an August 6 pretrial hearing, prosecutors requested a 15-year sentence for former army commander in chief Juan Miguel Fuente-Alba for embezzlement of public funds and money laundering. The National Prosecutor’s Office also filed a motion seeking a 10-year sentence for Fuente-Alba’s wife for her role in concealing the use of public funds. A trial date was set for March 2022.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights

cases, including multiple investigations into abuses during the 2019-20 civil unrest. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: The INDH operated independently and effectively, issued public statements and an annual report, and proposed changes to government agencies or policies to promote and protect human rights. The Senate and Chamber of Deputies have standing human rights committees responsible for drafting human rights legislation.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape. Penalties for rape range from five to 15 years' imprisonment, and the government generally enforced the law.

The law criminalizes some forms of both physical and psychological domestic violence and protects the privacy and safety of the victim making the charge of rape or domestic violence.

Family courts handle cases of domestic violence and penalize offenders with monetary fines and other sanctions, such as eviction of the offender from the residence shared with the survivor, restraining orders, confiscation of firearms, and court-ordered counseling. Cases of habitual psychological abuse and physical abuse are prosecuted in the criminal justice system. Penalties are based on the gravity of injuries and range from 61 days' to 15 years' imprisonment. Murder in the context of domestic violence is defined as femicide in the criminal code, and penalties range from 15 years to life in prison. The government generally enforced the laws against domestic violence effectively.

The Ministry of Women and Gender Equality had a victim's assistance and protection program that operated psychological, legal, and social assistance centers and shelters throughout the country and maintained an emergency hotline.

Violence against women and girls, including rape and femicide, was a significant problem. Reports to police and prosecutors of domestic violence were less

frequent than in previous years due to public health measures restricting movement to prevent the spread of COVID-19, thus making it more difficult for victims to report.

On September 6, Jessica del Carmen Gonzalez Toledo was found dead of stab wounds in her home after coworkers filed a missing-person report. Police found and arrested her partner at the scene. The man was charged with femicide and placed in pretrial detention.

On November 28, well known environmental activist Javiera Rojas was found dead in Calama, in the Antofagasta Region. Police reported her body was found with hands and feet bound. On December 2, two men, including her partner with whom she lived, were charged with murder and placed in pretrial detention.

On November 26, Hugo Bustamante and Denisse Llanos were convicted for the August 2020 rape and murder of 16-year-old Ambar Cornejo, Llanos's daughter, and were sentenced to life imprisonment. Bustamante, who was Denisse Llanos's partner, had prior convictions for killing a previous partner and her nine-year-old son in 2005 and was freed on parole in 2016. Both were given additional sentences for multiple other crimes, including for sexually abusing Ambar's brother.

Sexual Harassment: Workplace sexual harassment is a civil but not criminal offense; penalties are outlined exclusively in the labor code. By law sexual harassment in the workplace is cause for immediate dismissal from employment. The law requires employers to define internal procedures or a company policy for investigating sexual harassment. Employers may face fines and additional financial compensation to victims if it is shown the company did not follow its policy on sexual harassment. The law provides protection to those affected by sexual harassment by employers and coworkers. The law provides severance pay to individuals who resign due to sexual harassment if they have worked at least one year with the employer.

Sexual harassment in public spaces is a crime. The law defines any words or gesture of a sexual nature designed to intimidate or humiliate another person as harassment. The law also covers audiovisual recordings of an individual's genital

area or private parts without consent. Depending on the severity of the crime, penalties range from 61 days' to five years' imprisonment and monetary fines.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

The national health service provided contraception and reproductive health services. Access to sexual and reproductive health services and information was limited in remote regions, which especially affected poor women.

On February 23, the government fined the pharmaceutical company responsible for supplying defective or improperly packaged birth control pills distributed by public health clinics during 2020. The defective pills allegedly caused at least 170 unwanted pregnancies. The government withdrew the pills from the market in September 2020 but did not publicize the problem or warn women using the potentially defective pills. On March 28, the National Corporation of Consumers and Users sued two laboratories, Silesia and Andromaco, in a Santiago civil court for reparation for economic and moral consequences to the affected mothers.

The government's National Service for Women and Gender Equality provided access to medical, legal, and psychological services for victims of sexual violence. Emergency contraception was available at pharmacies without a prescription. The National Service operated specialized centers for victims of sexual violence in Santiago, Valparaiso, and Concepcion, 110 centers nationwide for victims of gender-based violence, and a toll-free victims' hotline. The National Service for Minors (SENAME) provided assistance and shelters for victims younger than 18.

Discrimination: Although women possess most of the same legal rights as men, local human rights organizations reported that the government did not enforce the law effectively and that discrimination persisted in employment, pay, ownership and management of businesses, and education.

Certain laws defining the marital relationship enable discrimination. The most common marital arrangement is "conjugal society," which provides that a husband has the right to administer joint property, including his wife's property, without consultation or written permission from his wife, but a wife must demonstrate that her husband has granted his permission before she is permitted to make financial

arrangements. Legislation was pending despite a 2007 agreement with the Inter-American Commission on Human Rights to modify the conjugal society law to give women and men equal rights and responsibilities in marriage. The law provides that, unless a woman is married under the separate-estate regime or a joint-estate regime, she may not enter into a commercial partnership agreement without permission from her husband, while a man may enter into such an agreement without permission from his wife.

Despite a law providing for equal pay for equal work, one-third of women were paid less than men, according to an organization specializing in market and consumer data. The Ministry of Women and Gender Equality oversaw protecting women's legal rights and was specifically tasked with combatting discrimination against women.

Systemic Racial or Ethnic Violence and Discrimination

Equal treatment and nondiscrimination are explicitly protected in the constitution, and the labor code specifically prohibits discrimination. There were reports of discrimination against racial minorities and immigrants in public health and education. The government implemented training programs for public officials on assisting immigrants, incorporated interpreters into offices, and provided information in languages other than Spanish, specifically Haitian Creole. Some Haitians reported xenophobia and discrimination in their local communities. Several municipal governments implemented plans for assisting migrants with public services.

Indigenous Peoples

Although the constitution does not specifically protect indigenous groups, indigenous peoples have the right to participate in decisions affecting their lands, cultures, and traditions, including the exploitation of energy, minerals, timber, and other natural resources on indigenous lands. According to human rights organizations, indigenous peoples encountered serious obstacles to exercising these civil and political rights, including the right to use natural resources in their territories, to political participation, and to nondiscrimination and equal access to justice. While indigenous lands were demarcated, some indigenous Mapuche and

Rapa Nui communities demanded restitution of privately and publicly owned traditional lands. On November 9, a third consecutive state of emergency was declared in the southern regions of Araucania and Biobio, in which there were large populations of Mapuche, to allow the military to support law enforcement to address increased violence in these areas. Some indigenous groups criticized the decision as a government failure to meet the social, territorial, and economic demands of Mapuche activists.

The law recognizes nine indigenous groups in the country and creates an administrative structure to provide specialized programs and services for the economic, social, and cultural development of these peoples.

Indigenous persons experienced societal discrimination, including in employment. There were reports of incidents in which they were attacked and harassed. There were reports of police abuse of Mapuche individuals and communities, including children. The INDH brought petitions to protect the constitutional rights of Mapuche individuals, including children and adolescents, in cases of excessive use of force by security forces.

On March 22, the Temuco Appellate Court accepted a protective remedy brought by the National Children's Rights Defender on behalf of three adolescents who experienced cruel, inhuman, and degrading treatment at the hands of the PDI during a police operation in January in the Mapuche community of Temucuicui in the southern Araucania Region.

On April 29, Alberto Curamil, a Mapuche environmental activist, was injured by police who reportedly chased his truck and opened fire with riot weapons after Curamil participated in a protest against an arson attack on a Mapuche home. As of December 6, an investigation was pending.

On May 5, the Supreme Court upheld the January 28 homicide conviction and 16-year sentence of policeman Carlos Alarcon for the killing of Mapuche community leader Camilo Catrillanca. Alarcon, six other police, and one civilian employee were convicted for crimes ranging from homicide and attempted homicide to obstruction of justice, falsification of and tampering with evidence, and malfeasance in a 2018 shooting in Temucuicui.

Children

Birth Registration: Citizenship is derived by birth within the country's territory and from one's parents or grandparents. There were no reports that birth registration was denied on a discriminatory basis.

Child Abuse: There are laws against child abuse, but it remained a persistent problem. The law renders persons convicted of child sexual abuse permanently ineligible for any position, job, career, or profession in educational settings requiring direct and habitual contact with children younger than age 18. The law also includes a public registry of these sex offenders.

In March the National Defender for Children's Rights began the investigation of a complaint regarding the alleged mistreatment of a child in the Carlos Antunez shelter run by SENAME in Santiago. In a videorecording shot by neighbors and later shared in social media, social media users heard a child screaming and crying. Neighbors stated that SENAME authorities did not act on their first complaint.

Child, Early, and Forced Marriage: The legal minimum age of marriage is 18 (16 with parental consent).

Sexual Exploitation of Children: The law prohibits all forms of human trafficking and prescribes penalties ranging from five years to 15 years in prison, plus fines, for trafficking offenses. Child sex-trafficking cases were often prosecuted under a different law, which provides lesser penalties. Due to sentencing guidelines for first-time offenders that provide automatic parole for any sentence of less than five years' confinement, many convicted traffickers received weak sentences, hampering efforts to deter traffickers and hold them accountable.

Sexual relations with minors ages 14 to 17 may be considered statutory rape depending on the circumstances. Sex with a child younger than age 14 is considered rape, regardless of consent or the victim's gender. Penalties for statutory rape range from five to 20 years in prison. Child pornography is a crime. Penalties for producing child pornography range from 541 days to five years in prison.

Commercial sexual exploitation of children and adolescents was a problem, and

children were victims of sex trafficking with and without third-party involvement. Children were also used in the production of pornography.

Institutionalized Children: SENAME continued implementing a restructuring begun after investigations of the 2017 death of an 11-year-old child in SENAME custody revealed systemic problems of abuse and neglect in SENAME shelters. The restructuring included closing traditional shelters for vulnerable children and replacing them with family-style residences. The first family-style residences opened in 2019 in Valparaíso and Santiago. In 2020 SENAME opened additional residences in Santiago, Arica, and Biobío. During 2021 SENAME did not open new residences but continued construction on a total of 13 new residences located in the regions of Santiago, Maule, Biobío, and the Araucanía.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Jewish community had approximately 18,000 persons.

On May 19, protesters outside the embassy of Israel in Santiago burned Israeli flags and distributed flyers featuring a swastika imposed on a Star of David. On May 23, an individual who claimed to be Palestinian assaulted an orthodox rabbi.

Although the Communist Party mayor of Recoleta, Daniel Jadue, lost his presidential bid, Jewish leaders feared that his fierce opposition to Israel advanced the agenda of delegitimizing the right to self-determination of the Jewish people. Jadue had previously accused Jews of controlling media and referred to the Jewish community as the “Zionist community.”

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

Persons with disabilities cannot access education, health services, public buildings, and transportation on an equal basis with others. While the law requires universal and equal access to these services, information, and communications, such access was limited, and most public buildings did not comply with legal accessibility mandates. The public transportation system, including many metro stations and most buses, particularly outside Santiago, did not adequately provide accessibility for persons with disabilities. National government communications via television were interpreted into sign language, but not all forms of government information and communications, including information from regional and local governments, were provided in accessible formats.

On October 11, during a protest in Santiago, a man in a wheelchair was hit by a high-pressure water stream from a Carabineros water cannon, overturning his chair and causing him to fall. The National Service for Disabilities solicited information from Carabineros, who opened an internal investigation.

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities, and the government generally enforced these provisions. Nonetheless, persons with disabilities suffered de facto discrimination in employment and occupation, education, housing, and health care. Children with disabilities attended public and private school with their peers and in segregated schools. According to the Tacal Foundation, only 50 percent of children with disabilities completed eighth grade; 10 percent finished high school; and 5 percent entered tertiary education, with only 1 percent of those obtaining a university degree. In comparison, prior to the COVID-19 pandemic, 88 percent of all students finished high school.

On November 1, an update to the labor inclusion law, promulgated in October 2020, went into effect. The law stipulates that employers adopt measures to include workers with disabilities into their workforce; the law includes an annual reporting requirement. Of 7,000 companies that under the previous law should have employed persons with disabilities as 1 percent of their workers, only 1,700 companies had done so as of November, according to the Tacal Foundation.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

The law prohibits discrimination against persons based on sexual orientation or gender identity in housing, employment, and access to government services. The government generally enforced these laws effectively. At times, however, authorities appeared reluctant to use the full recourse of antidiscrimination laws, including charging assailants of lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) victims with a hate crime, which would elevate criminal penalties.

Violence against LGBTQI+ individuals continued. In July the Movement for Homosexual Integration and Liberation (MOVILH) reported humiliating treatment and homophobia towards a patient at the San Pablo de Coquimbo Hospital. A doctor discharged the patient less than 24 hours after surgery and without checking the state of the patient's postoperative recovery.

In March, MOVILH reported that in 2020 it received 1,266 reports of violence or discrimination due to sexual orientation or gender identity, the highest number in the history of their annual report and a 15 percent increase from 2019. The cases included six killings, police abuse, discrimination in the workplace, and hate campaigns. The most common discriminatory acts reported to MOVILH were verbal abuse and discrimination in public services, such as police operations, public education, and health services.

The law grants transgender citizens aged 14 and older the right to have gender markers on government-issued identity cards and university diplomas changed to reflect their gender identity. In May, MOVILH reported that more than 50 persons had reported difficulties in changing their name and gender with the civil registry and delays in receiving their new identity cards.

On December 9, President Pinera signed into law the Marriage Equality Act, with broad bipartisan support from the Congress. Since 2015 civil unions provided same-sex couples with many but not all the benefits of married couples, such as the right to adoption. Under the new law, all families have the right to the same benefits and protections.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the rights of workers, with some limitations, to form and join independent unions of their choice, bargain collectively, and conduct strikes. The law also prohibits antiunion practices and requires either back pay or reinstatement for workers fired for union activity.

Workers in the private sector and in state enterprises have the freedom to unionize without prior approval. Police, military personnel, and civil servants working for the judiciary are prohibited from joining unions. Union leaders are restricted from being candidates or members of Congress. The Labor Directorate, an independent government authority under the Ministry of Labor, has broad powers to monitor unions' financial accounts and financial transactions. For example, unions must update their financial records daily, and ministry officials may inspect the records at any time.

The law prohibits public employees from striking, although they frequently did. While employees in the private sector and workers in formal and regulated collective bargaining units have the right to strike, the law places some restrictions on this right. For example, an absolute majority of workers, rather than a majority of those voting, must approve strikes.

The law also prohibits employees of 101 specific private-sector companies, largely providers of services such as water and electricity, from striking, and it stipulates compulsory arbitration to resolve disputes in these companies. Additionally, workers employed by companies or corporations whose stoppage would cause serious damage to the health, economy, or security of the country do not have the right to strike.

Employers may not dismiss or replace employees for being involved in a strike. Unions must provide emergency personnel to fulfill the company's "minimum services." Those include the protection of tangible assets and the company's facilities, accident prevention, ensuring the supply of essential public services, and ensuring the prevention of environmental and sanitary damages.

The law extends unions' rights to information, requiring large companies to disclose annual reports, including balance sheets, statements of earnings, and audited financial statements. Large companies must provide any public information required by the Superintendence of Securities and Insurance within 30 days of the date when the information becomes available. Smaller companies must provide the information necessary for preparing collective bargaining processes.

The law extends collective bargaining rights to intercompany unions, provided they represent workers at employers having 50 or more employees and falling within the same economic rubric or activity. An absolute majority of all covered workers must indicate through secret ballot that they agree to be represented by an intercompany union in collective bargaining. Intercompany unions for workers at micro or small businesses (i.e., with fewer than 50 workers) are permitted to bargain collectively only when the individual employers all agree to negotiate under such terms.

The law does not provide for collective bargaining rights for workers in public institutions or in a private institution that received more than 50 percent of its funding from the state in either of the preceding two years, or whose budget was dependent upon the Defense Ministry. The law also does not provide for collective bargaining in companies whose employees are prohibited from striking, such as in health care, law enforcement, and public utilities. The law extends bargaining rights to apprentices and short-term employees. Executives, such as managers and assistant managers, are prohibited from collective bargaining.

The government enforced applicable laws effectively, and penalties were commensurate with those for other laws involving denials of civil rights, such as discrimination. Nevertheless, the Labor Directorate commented on the need for more inspectors. Penalties were not sufficient to deter violations. Companies are generally subject to sanctions for labor violations, which vary according to the severity of the case. Companies may receive "special sanctions" for infractions, which include antiunion practices. Freedom of association was generally respected.

Employers sometimes did not respect the right to collective bargaining. NGOs and unions reported that companies sought to inhibit the formation of unions and avoid

triggering collective bargaining rights, especially among seasonal agricultural workers and in key export sectors such as mining, forestry, and fishing. These companies used subcontracts and temporary contracts and obtained several fiscal registration or tax identification numbers when increasing the size of their workforce. Subcontracted employees earned lower wages than regular employees performing the same task, and many contractors failed to provide formal employment benefits, such as social security, health care, and pensions.

In August workers at the top lithium producer Albermarle went on strike after accusing their employer of discriminatory contracts and salary inequality. On September 15, the Albermarle Salar Workers Union reached an agreement with Albermarle for a new 36-month labor contract. Workers returned to their jobs immediately following the settlement.

Labor courts may require workers to resume work upon a determination that a strike, by its nature, timing, or duration, causes serious risk to the national economy or to health, national security, and the supply of goods or services to the population. Generally, a back-to-work order should apply only when a prolonged strike in a vital sector of the economy might endanger public safety or health, and it should apply only to a specific category of workers.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor but does not criminally prohibit forced labor except when it results from human trafficking. Penalties were commensurate with those for analogous crimes, such as kidnapping. NGOs reported many government officials responsible for identifying and assisting victims had limited resources and expertise in identifying victims of labor trafficking. Additionally, judges often suspended or commuted sentences. The government worked to prevent and combat forced labor through its interagency antitrafficking taskforce, which included international organizations and local NGOs. The task force published and began implementation of its 2019-22 national action plan.

Labor trafficking continued to occur. Some foreign citizens and children were subjected to forced labor in the mining, agriculture, construction, street vending,

garment, domestic service, and hospitality sectors. Some children were forcibly employed in the agricultural, industrial, and service sectors, as well as in the illegal drug trade (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The country conforms to international standards, which dictate the minimum age for employment or work is 15. The law sets the minimum age for employment at 18, although it provides that children ages 15-17 may work with the express permission of their parents or guardians if the child attends school. Children may perform only light work that does not require hard physical labor or constitute a threat to health or the child's development. The law prohibits all the worst forms of child labor. Prohibitions related to the use of children for illicit activities do not meet international standards because they only criminalize supplying children with drugs or inducing children to use drugs.

Ministry of Labor inspectors enforced regulations in the formal economy effectively but did not enforce regulations in or inspect the informal economy. Infractions included contracting a minor younger than 18 without the authorization of the minor's legal representative, failing to register a minor's contract with the ministry, and contracting a minor younger than 15 for activities not permitted by law. Criminal penalties for the worst forms of child labor, such as commercial exploitation of children, were commensurate with those for analogous crimes such as kidnapping.

The government devoted considerable resources and oversight to child labor policies. The Ministry of Labor and Social Welfare, through the Program Against Child Labor, led efforts to eradicate the worst forms of child labor.

Multiple government agencies participated in the National Advisory Committee to Eradicate Child Labor. The committee met regularly and brought together civil society organizations and government agencies in a coordinated effort to raise awareness, provide services to victims, and protect victims' rights. The Worst Forms of Child Labor Task Force, a separate entity, maintained a registry of cases

and a multisector protocol for the identification, registration, and care of children and adolescents who were victims of commercial sexual exploitation. The National Tourism Service's hotel certification procedures, developed in collaboration with the National Service for Minors, included strict norms for preventing the commercial sexual exploitation of children. This included special training for National Tourism Service staff charged with assessing and certifying hotels.

Some children were subjected to commercial sexual exploitation and the worst forms of child labor. Authorities identified a significant number of children involved in illicit activities, including drug trafficking and theft; some children may have been victims of child sex trafficking. Children also engaged in dangerous tasks in agriculture.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

d. Discrimination with Respect to Employment and Occupation

The law and regulations prohibit employment discrimination based on race, sex, age, civil status, union affiliation, religion, political opinion, nationality, national extraction, social origin, disability, language, sexual orientation, gender identity, HIV-positive status or other communicable diseases, refugee or stateless status, ethnicity, or social status. The government and employers cannot discriminate because of refugee status, stateless status, or ethnicity, but workers must have a work permit or be citizens to hold contracted jobs.

The law provides civil legal remedies to victims of employment discrimination based on race, ethnicity, nationality, socioeconomic situation, language, ideology, political opinion, religion, belief, association or participation in union organizations or lack thereof, gender, sexual orientation, gender identity, marriage status, age, political affiliation, personal appearance, and sickness or physical disability. For all public agencies and for private employers with 100 or more employees, the law requires 1 percent of jobs be reserved for persons with disabilities.

The government enforced the applicable law effectively, and penalties were

commensurate with other laws related to civil rights. Authorities generally enforced the law in cases of sexual harassment, and there was no evidence of police or judicial reluctance to act. Companies may receive “special sanctions” for infractions such as denying maternity leave. Discrimination in employment and occupation continued to occur. Indigenous persons continued to experience societal discrimination in employment. Statistics regarding rates of discrimination faced by different groups were not available.

e. Acceptable Conditions of Work

Wage and Hour Laws: The national minimum wage exceeded the poverty level. The law sets the legal workweek at six days or 45 hours. The maximum workday is 10 hours (including two hours of overtime pay). The law provides exemptions from restrictions on hours of work for some categories of workers such as managers; administrators; employees of fishing boats; restaurant, club, and hotel workers; drivers; airplane crews; telecommuters or employees who work outside of the office; and professional athletes. The law mandates at least one 24-hour rest period during the workweek, except for workers at high altitudes, who may exchange a work-free day each week for several consecutive work-free days every two weeks. Annual leave for full-time workers is 15 workdays, and workers with more than 10 years of service are eligible for an additional day of annual leave for every three years worked. Overtime is any time worked beyond the 45-hour workweek, and workers are due time-and-a-half pay for any overtime performed. The Labor Directorate, an agency under the Ministry of Labor and Social Welfare, is responsible for enforcing minimum wage and other labor laws and regulations; penalties were commensurate with those for similar crimes. As of July the directorate had 374 inspectors who conducted both regular and unannounced workplace visits. Inspectors can impose penalties for violations of labor, social security, and occupational safety and health (OSH) laws.

Occupational Safety and Health: The law establishes OSH standards, which are applicable to all sectors. Special safety and health norms exist for specific sectors such as mining and diving. The National Service for Geology and Mines is further mandated to regulate and inspect the mining industry. The law does not regulate the informal sector. By law workers may remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities

effectively protected employees in this situation.

The Health Ministry and the Labor Ministry administered and effectively enforced OSH standards. Penalties for violations of OSH laws were commensurate with those for similar crimes, such as negligence. The law establishes fines for noncompliance with labor regulations. Companies may receive “special sanctions” for infractions such as causing irreversible injuries to an employee.

Informal Sector: A July-September survey by the Statistics National Institute revealed that informal employment represented 27.7 percent of total employment, an increase of 4.2 percentage points from 2020. Impacted sectors included wholesale and retail trade (informal employment up by 30.6 percent) and construction (informal employment up by 62.3 percent). Regarding new jobs in the informal sector, self-employed workers were up by 48.1 percent, domestic service workers were up by 46.7 percent, and jobs with employers were up by 39.3 percent. Combined, those three categories represented the majority of new jobs in the informal sector.

The government provided economic and social measures such as the Emergency Family Income program to those affected by the COVID-19 pandemic, including workers in the informal economy. As of January, the government provided other types of social assistance in the form of cash payments to low-income families and unemployed workers. In September the government began paying an incentive to companies for hiring women, young workers, men aged 55 years and older, persons with disabilities, and workers retired due to a disability.