

# PERU 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Peru is a constitutional, multiparty republic. Ollanta Humala Tasso of the Peruvian Nationalist Party (part of the Gana Peru electoral alliance) won the June 2011 national elections in a vote widely considered free and fair. Security forces reported to civilian authorities.

The most serious human rights problems included violence against women and children, trafficking in persons, and corruption that undermined the application of the law.

The following human rights problems also were reported: security force killings of protesters during demonstrations, harsh prison conditions, abuse of detainees and inmates by prison security forces, lengthy pretrial detention and inordinate trial delays, intimidation of the media, incomplete registration of internally displaced persons, and discrimination against women. There also was discrimination against individuals with disabilities; members of racial and ethnic minority groups; indigenous persons; lesbian, gay, bisexual, and transgender persons; and persons with HIV/AIDS. Other problems were a lack of labor law enforcement and the exploitation of child labor, particularly in informal sectors.

The government took steps to investigate and in some cases prosecute or otherwise punish public officials who committed abuses. Officials sometimes engaged in corrupt practices with impunity.

The terrorist organization Sendero Luminoso (Shining Path) was responsible for killings and other human rights abuses, including recruitment of child soldiers, extortion, hostage taking, and intimidation.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

The government or its agents did not commit any politically motivated killings; however, in occurrences of societal unrest, security forces killed 17 protesters. The majority of demonstrations and protests, more than 200 during the year, were a result of socioenvironmental conflicts. In addition, one person died as a result of police abuse.

On May 28, security forces allegedly killed two protesters during demonstrations against a mining operation in Espinar, Cusco Region. On July 3-4, security forces allegedly killed four persons participating in demonstrations against the Conga mining project, in the towns of Celendin and Bambamarca, Cajamarca Region. These incidents were linked to social conflict over extractive industries and occurred during government-designated states of emergency in Cajamarca and Cusco. Prosecutors opened investigations, but at year's end had not announced any conclusions. In addition, four people died during demonstrations against the closure of a wholesale market in Lima on October 25 and 27.

On July 20, the Supreme Penal Court reduced the penalty for the Colina Group members (a group of army officers accused of committing extrajudicial killings during the 1990s) from 25 to 20 years and declared that the acts the Colina Group committed were not crimes against humanity. The same court then annulled that decision in September, after the Inter-American Court of Human Rights (IACHR) required its reversal (see also section 1.e.).

In the first session of his trial on April 9, retired army colonel Telmo Hurtado pled guilty to the 1985 killing of 69 villagers in Accomarca, Ayacucho Region. In subsequent hearings Hurtado implicated other army officers as active participants in the case. At year's end Hurtado remained in jail while his trial continued.

In October a court concluded that the killing of Eduardo Cruz Sanchez during the April 1997 rescue of hostages from the Japanese ambassador's residence was an extrajudicial execution, but it absolved three high-level officials (former intelligence chief Vladimiro Montesinos, former army commander Nicolas Hermoza Rios, and former army intelligence head Roberto Huaman Azcurra) of having ordered Cruz Sanchez's death. Gloria Cano, from the nongovernmental organization (NGO) Pro-Human Rights Association, and the Public Ministry appealed the decision to absolve the three officials. At year's end the appeal was pending.

Members of two Shining Path factions conducted 87 terrorist acts (including armed actions) in remote coca-growing areas that resulted in the killings of 18 soldiers and/or police, as well as two civilian injuries in the Apurimac, Ene, and Mantaro River Valleys (VRAEM), and the Upper Huallaga Valley (UHV) emergency zones. The two emergency zones were located in parts of Ayacucho, Cusco, Huancavelica, Huanuco, Junin, San Martin, and Ucayali regions.

**b. Disappearance**

There were no reports of politically motivated disappearances during the year.

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

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

Allegations of abuse most often arose immediately following an arrest, when families were prohibited from visiting suspects and when attorneys had limited access to detainees. In some cases police and security forces threatened or harassed victims, relatives, and witnesses to prevent them from filing charges of human rights violations.

On July 4, during antimining protests in Cajamarca, national police used allegedly excessive force in a confrontation with human rights lawyers Genoveva Gomez, from the Ombudsman's Office, and Amparo Abanto, from the National Human Rights Coordinator, who were monitoring the detention of protesters at the Cajamarca Regional Police Station. At year's end the case was under investigation.

According to the NGO Human Rights Commission, in a report released in October, torture remained a problem. The report noted that the state did not effectively prevent and punish torture, guarantee victims the proper access to justice and reparations, or provide adequate protection to victims and their defenders.

**Prison and Detention Center Conditions**

Prison conditions remained harsh for most of the country's inmates. Overcrowding, poor sanitation, and inadequate nutrition and health care were serious problems. Guards received little or no training or supervision.

Physical Conditions: As of June there were 58,019 prisoners, of whom 3,640 were women and 1,337 were teenagers 18-19 years old. The National Penitentiary Institute (INPE) operated 43 of the active prisons; the Peruvian National Police (PNP) had jurisdiction over 14; and 13 were operated jointly. Pretrial detainees were held temporarily in pretrial detention centers located at police stations,

judiciary buildings, and the Palace of Justice, in most cases with convicted prisoners. The San Juan de Lurigancho men's prison held 7,985 prisoners in a facility designed for 3,204. The prison in Callao was built for 572 persons but held 2,753. Prisons for women also were overcrowded, with conditions similar to those for men. The Santa Monica women's prison in Chorrillos operated at more than 200 percent capacity; designed for 450 inmates, it held 1,035.

Nationwide, prison guards and fellow inmates reportedly abused prisoners. Inmates reportedly killed fellow inmates. Inmates had intermittent access to potable water, bathing facilities were inadequate, kitchen facilities were unhygienic, and prisoners often slept in hallways and common areas for lack of cell space. Prisoners with money had access to cell phones, illegal drugs, and meals prepared outside the prison; prisoners who lacked funds experienced much more difficult conditions.

Basic medical care was available at most prisons, but there was a shortage of doctors, and inmates complained of having to pay for medical attention. Tuberculosis and HIV/AIDS reportedly remained at near-epidemic levels. The incidence of tuberculosis was 50 times higher than among the general population; the HIV/AIDS rate was more than eight times higher.

Administration: Recordkeeping on prisoners was adequate and up to date. Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities allowed prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhuman conditions. Authorities investigated such complaints and documented the results in a publicly accessible manner. The ombudsman reported that most complaints stemmed from the failure of authorities to release inmates on time due to delays in the judicial process or INPE procedures and stated that the number of such complaints during the year diminished because of improved INPE recordkeeping. The government took no steps to use alternatives to prison sentencing for nonviolent offenders.

Monitoring: The government permitted monitoring visits by independent human rights and international humanitarian law observers. International Committee of the Red Cross officials made 56 unannounced visits to inmates in 23 prisons and detention centers and monitored individually 396 persons in accordance with standard practice. Ombudsman representatives also made regular visits to prisons in Lima and the provinces.

Improvements: INPE continued to make substantive improvements in prison management and career development for penitentiary employees. In addition, on June 26, the president approved a decree that provided 34.4 million new soles (\$13.5 million) to INPE to improve meals, purchase medicines, maintain facilities, and provide payroll expenses.

#### **d. Arbitrary Arrest or Detention**

The constitution and laws prohibit arbitrary arrest and detention, and the government generally observed these prohibitions. However, isolated cases occurred, and the right to freedom from arrest without warrant was suspended in emergency zones.

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

The PNP, with a force of approximately 100,000, is responsible for all areas of law enforcement and internal security except in the VRAEM emergency zone, where the military is responsible for internal security. The PNP functioned under the authority of the Ministry of Interior.

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

Corruption and a high rate of acquittals in civilian courts for military personnel accused of crimes remained problems (see section 4). The Ministries of Interior and Defense employed internal mechanisms to investigate allegations of abuses by security forces. The Public Ministry conducted investigations, although access to evidence held by the Ministry of Defense was not always forthcoming. The Ombudsman's Office can also investigate cases but must refer any conclusions to the Public Ministry for follow-up.

The Public Ministry is charged with witness protection responsibilities but lacked resources to provide training to prosecutors and police officers, conceal identities, or offer logistical support to witnesses.

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

The law permits police to detain persons for investigative purposes. The law requires a written judicial warrant based on sufficient evidence for an arrest unless the perpetrator of a crime is apprehended in the act. Only judges may authorize detentions. Authorities are required to arraign arrested persons within 24 hours, except in cases of terrorism, drug trafficking, or espionage, for which arraignment must take place within 15 days; in remote areas arraignment must occur as soon as practicably possible. Military authorities must turn over persons they detain to the police within 24 hours. The law requires police to file a report with the Public Ministry within 24 hours after an arrest. The Public Ministry, in turn, must issue its own assessment of the legality of the police action in the arrest; authorities respected this requirement in practice.

Judges have 24 hours to decide whether to release a suspect or continue detention, and this provision was respected in practice. However, police may detain suspected terrorists incommunicado for 10 days. A functioning bail system exists, but many poor defendants lacked the means to post bail. By law detainees are allowed access to family members and a lawyer of their choice. The Ministry of Justice provided indigent persons with access to an attorney at no cost, although these attorneys often had poor training. Several NGOs provided capacity-building training for attorneys.

Arbitrary Arrest: On May 30, in the town of Espinar, in the Cusco Region, PNP agents arrested Mayor Oscar Mollohuanca and Herbert Huaman after they participated in protests while the area was under a state of emergency. Although government authorities deemed the arrest legal, human rights groups questioned their subsequent transfer to a distant jurisdiction where police allegedly used excessive force.

On July 4, authorities detained Marco Arana, an environmental activist who protested against the Conga mining project in Cajamarca. Authorities stated that Arana was protesting during a declared state of emergency decreed on July 4. Human rights advocates argued that the state of emergency was not announced until July 5 and that Arana was arrested without a warrant but later released. Arana alleged mistreatment while at the police station, and at year's end an investigation was pending.

Pretrial Detention: Lengthy pretrial detention continued to be a problem. By July authorities had sentenced only 24,173 of the 58,681 persons held in detention facilities and prisons. According to INPE statistics, as of July approximately 59 percent of those in prison were awaiting trial, the majority for one to two years.

Delays were due mainly to judicial inefficiency, corruption, and staff shortages. The law requires release of prisoners who have been held more than 18 months without being tried and sentenced; the period is extended to 36 months in complex cases. Under the new penal procedural code (see section 1.e.), the terms are nine months for simple cases and 18 months for complex cases. The new code was being phased in; by year's end it had been implemented in 21 of 31 judicial districts.

#### **e. Denial of Fair Public Trial**

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

#### **Trial Procedures**

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

The judicial branch continued the gradual rollout, begun in 2009, of a new penal procedural code designed to streamline the penal process. The new code requires public hearings for each case and assigns the investigative responsibility to public prosecutors and police; judges are to cease their own investigating. Implementation of the new code in Lima and Callao was planned for 2013.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

Citizens may seek civil remedies for human rights violations, but court cases often continued for years. Press reports, NGOs, and other sources alleged that persons outside the judiciary frequently corrupted or influenced judges (see section 4).

## **Regional Human Rights Court Decisions**

At the request of human rights advocacy groups, the IACHR examined a past decision by the Supreme Penal Court to reduce the sentences of the Colina Group (see section 1.a.). In September the IACHR ruled the decision was an obstacle to Peru's compliance with a 2001 IACHR ruling that obligated the country to convict those responsible for extrajudicial killings in the 1990s. On September 27, the Supreme Penal Court annulled its July decision.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice. There were reports, however, that authorities sometimes entered private dwellings before obtaining a warrant; for example, the right to inviolability of the home was legally suspended in the UHV and VRAEM emergency zones.

In June Congressman Luis Galarreta denounced the judiciary for giving public prosecutors permission to intercept his telephone calls while investigating a journalist for illegal hacking charges. The journalist had occasionally called Galarreta for reporting purposes.

### **g. Use of Excessive Force and Other Abuses in Internal Conflicts**

Abductions: On April 9, Shining Path members kidnapped 36 workers from the Camisea Gas Project, near the town of Kepashiato in La Convencion Province, Cusco Region. Shining Path released them on April 14. Clashes between security forces and Shining Path members, during and after the time the workers were held hostage, resulted in 18 deaths and injuries among the police and army.



On July 6, in the town of Sanal in San Martin de Pangoa Province, Junin Region, security forces rescued 11 children (ages two to seven years) whom the Shining Path had reportedly kidnapped (see section 6).

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

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

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. Generally, an independent press and a functioning democratic political system combined to ensure freedom of speech and press. There were, however, instances of harassment and occasional violence toward journalists, as well as self-censorship within media outlets.

Violence and Harassment: A number of journalists and media outlets reported experiencing threats or intimidation. The National Journalists Association reported 136 cases of harassment during the year, compared with 189 in 2011, and the Institute of Press and Society issued 89 alerts, compared with 121 in 2011. Of the harassment cases reported by the National Journalists Association, 35 involved harassment by local authorities, 22 by police and military personnel, six by media owners, and 73 by unknown perpetrators.

Censorship or Content Restrictions: Some media representatives reported that press freedom was threatened by narcotics traffickers, who intimidated journalists reporting information that undermined their operations. Additionally, some media, most notably in provinces outside of Lima, practiced self-censorship due to fear of local government reprisal. On April 20, two United TV reporters in Huancayo, Junin Region, resigned after alleging their station manager censored their report documenting two police officers' use of an official vehicle for personal use. There were no claims of government interference in these instances.

Libel Laws/National Security: The penal code criminalizes libel, and officials reportedly used it to intimidate reporters. For example, in April a local official in the province of Maynas charged the director of Radio Arpegio with libel for broadcasting interviews of residents who criticized a council member. The high-profile case continued of Jose Godoy, the first blogger in the country to be convicted of defamation. Convicted in 2010, Godoy was acquitted on July 9 after his sentence was overturned on January 11. Previously, the court had sentenced Godoy to three years in prison (commuted to three years' probation) and a fine of

320,000 new soles (\$125,000) for defamation of a former congressman and minister, Jorge Mufarech Nemy. In 2009 Godoy published an article on his blog with links to Web sites that tied Mufarech Nemy to criminal activity. Mufarech appealed Godoy's July acquittal.

On December 10, the government issued Legislative Decree 1129, which designates all information about national security and defense as secret. Press freedom activists, such as the Institute for Press and Society, criticized the decree as an attack on transparency, freedom of information, and freedom of the press.

### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. The National Office of Computing and Electronic Government reported that 34.1 percent of the population had access to the Internet. According to the National Institute of Information Statistics, 17.3 percent of residences had fixed connections to the Internet. In rural areas the Internet was less accessible than in metropolitan areas.

### **Academic Freedom and Cultural Events**

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

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

### **Freedom of Assembly**

The constitution provides for the right of freedom of assembly, and the government generally respected this right in practice. The law does not require a permit for public demonstrations, but organizers must report the type of demonstration planned and its intended location to the appropriate regional governor, an official appointed by the national government who reports to the Interior Ministry. However, the government suspended the freedom of assembly in emergency zones where armed elements of the Shining Path operated, as well as in provinces of the Cajamarca and Cusco regions during temporary states of emergency that the government designated as a result of social conflict.

Authorities may prohibit demonstrations for reasons of public safety or health. Police used tear gas and occasional force to disperse protesters in various

demonstrations. Although most were peaceful, protests in some areas turned violent, resulting in deaths and injuries (see section 1.a.). On July 4, the government declared a 30-day state of emergency in three provinces of the Cajamarca Region after weeks of protests against a large mining project that interrupted daily activities, caused shortages in the region, and led to clashes between protesters and police in which five persons were killed and 21 injured. The government extended the state of emergency for another 30 days and lifted it on September 3. On April 10, the government declared a 60-day state of emergency in the province of Kepashiato in the Cusco Region, after Shining Path members kidnapped 36 natural gas pipeline workers. The state of emergency was repeatedly prolonged; on December 7, it was extended for another 60 days.

### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right in practice.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

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

The law provides for freedom of internal movement, 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.

In-country Movement: The government maintained emergency zones where it restricted freedom of movement in several provinces, an effort it stated was to maintain public peace and restore internal order.

Narcotics traffickers and Shining Path members at times interrupted the free movement of persons by establishing roadblocks in sections of the UHV and VRAEM emergency zones.

Protesters in the Cajamarca Region and other areas blocked roads, sometimes for weeks, to draw public attention to grievances.

### **Internally Displaced Persons (IDPs)**

There were no major incidents of internal displacement during the year, and the situation of former IDPs continued to be difficult to assess. According to the UNHCR, the number of IDPs remained unknown, because officials registered relatively few. The government's Reparations Council continued assisting persons who suffered during the 1980-2000 conflict with the Shining Path and Tupac Amaru Revolutionary Movement. The council compiled a registry of victims, which as of September included an estimated 157,777 individuals and 5,697 communities eligible for reparations. Several victims and family members lacking proper identity documents had difficulties registering for reparations. A 2011 supreme decree authorized phased payments of reparations to victims and stipulated only victims registered by December 31, 2011, would be eligible. The government budgeted 100 million new soles (\$39.2 million) to pay a first round of reparations, giving priority to older recipients; at year's end the government estimated it had made reparation payments of approximately 90 million new soles (\$35.3 million).

### **Protection of Refugees**

As of December the UNHCR reported 480 pending refugee requests and 1,122 refugees whom the government recognized.

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. The government cooperated with the UNHCR and recognized the Catholic Migration Commission as the official provider of technical assistance to refugees. The commission also advised citizens who feared persecution and sought asylum abroad. The government provided protection to refugees on a renewable, year-to-year basis, in accordance with commission recommendations. During the year the Ministry of Foreign Relations recognized 153 refugees and rejected 136 pleas for refugee status; 126 of the 136 rejected pleas were from Cuban refugees.

Durable Solutions: There was no resettlement program, but in past years the state received persons recognized as refugees in other nations and provided some administrative support toward their integration. The UNHCR provided such

refugees with humanitarian and emergency aid, legal assistance, documentation, and in exceptional cases, voluntary return and family reunification.

Temporary Protection: The government provided temporary protection to a total of 145 individuals who were awaiting a decision on their refugee status. This included 81 Haitian citizens who had unsuccessfully attempted to enter Brazil via Peru.

### **Stateless Persons**

Citizenship is derived either by birth within the country's territory or from one's parents. If overseas, parents must register their child's birth by age 18 for the child to obtain citizenship. The law provides all citizens with the right to a name, nationality, and legal recognition as well as other civil, political, economic, and social rights. An estimated 393,950 minors did not have birth certificates, and 868,440 citizens over age 18 lacked identity documents and could not fully exercise these rights, making them de facto stateless. Obtaining a national identity document requires a birth certificate, but many births in rural areas occurred at home and were not registered. Poor indigenous women and children in rural areas were disproportionately represented among those lacking identity documents. Undocumented citizens faced social and political marginalization and barriers to accessing government services, including running for public office or holding title to land.

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

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

### **Elections and Political Participation**

Recent Elections: In July 2011 Ollanta Humala Tasso assumed the presidency after two rounds of elections that observers considered free and fair. Domestic and international observers declared the nationwide elections, held on April 10 (for president, Congress, and the Andean Parliament) and on June 5 (a second round for the presidential race only), to be fair and transparent, despite some controversy over campaign financing and minor irregularities in some areas. In elections for

the unicameral Congress, President Humala's Gana Peru alliance won 47 of 130 seats, which constituted the largest of six legislative blocs.

Citizens filed petitions to recall 265 mayors and 1,043 city council members in 266 districts and four provinces. The unusually large number of recall attempts stemmed from political fragmentation in various regions rather than from an unusually large number of corrupt officials. More than 750,000 citizens voted on September 30 whether to expel those officials. The attempt to include the mayor of Lima, Susana Villaran, in this group was slowed by controversy over the validity of signatures required to hold a recall vote; the signatures were ultimately approved, and the National Elections Board set a recall election for March 17, 2013.

Political Parties: Political parties operated without restriction or outside interference, although they remained weak institutions dominated by individual personalities. In regional and municipal elections, regional movements continued to gain ground at the expense of national parties. Groups that advocate violent overthrow of the government are barred from participating in the political process. A political group linked to the Shining Path, the Movement for Amnesty and Fundamental Rights (MOVAREDEF), was active and attempted to register officially as a political party in the National Electoral Court. MOVAREDEF withdrew its registration request on February 2, after the registration division of the National Election Board concluded that MOVAREDEF's philosophy did not conform to a commitment to democracy and found irregularities in the group's registration documentation.

Participation of Women and Minorities: The law mandates that at least 30 percent of the candidates on party lists be women, and the parties complied. There were 28 women in the 130-seat Congress. Seven of 19 cabinet members were women. There were two women on the 18-member Supreme Court. Three members of Congress identified themselves as Afro-Peruvians.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials; however, the government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There was a widespread perception that corruption was pervasive in all branches of government. The Office of the Comptroller General has independent authority to sanction public officials who

commit corrupt acts. Penalties include temporary suspension, termination of employment, and criminal prosecution.

Allegations of widespread corruption in the judicial system continued. The penal procedural code, while not yet implemented in Lima and Callao, was applied to corruption cases in these judicial districts, an indication of the importance given to such cases.

During their time in office, members of Congress enjoy congressional immunity and cannot be prosecuted for any acts during their time in the legislature. In the case of flagrant crimes, the judicial branch can request that Congress lift immunity and allow the arrest of a member. By law congressional immunity does not apply to crimes committed before the member was sworn in, but in practice it impeded most prosecutions. It also does not officially protect members of Congress from nonpenal accusations, such as failure to fulfill contracts or pay child support. Forty-five members of Congress were under investigation by either the Congressional Ethics Committee or state prosecutors, or both, for questionable activities ranging from falsifying their resumes (by including false degrees and omitting prior convictions) to involvement in illegal mining and money laundering. Another prominent case involved the former second vice president, also a member of Congress and accused of influence peddling. On January 16, he resigned from his vice president post but retained his seat in the legislature.

Corruption in prisons was a serious problem, and in some cases guards cooperated with criminal bosses who oversaw the smuggling of guns and drugs into prisons. There were several reports of military corruption, impunity, and resistance to providing information on military personnel under investigation for human rights abuses committed during the country's internal armed conflict. Security forces sought to strengthen accountability with training in human rights and the revision of disciplinary procedures but were doing so slowly.

In July a special congressional committee investigating corruption during Alan Garcia's second administration (2006-11) presented its first report and recommended prosecuting Garcia for corruption and mismanagement of a nationwide high school facility remodeling program. At year's end the recommendation to prosecute continued under review.

On October 27, lawyer Alberto Quimper, one of the accused in the Petroaudios corruption case of 2008, was released from jail. Ten days earlier the Constitutional Tribunal had declared null a ruling that returned him to jail in 2011, after he

violated his house arrest in October 2011. The Constitutional Tribunal later clarified that Quimper was not declared innocent and that the prosecution would continue.

Most public officials are subject to financial disclosure laws and must submit personal financial information to the Office of the Comptroller General prior to taking office and periodically thereafter. The office monitors and verifies disclosures, but the laws were not strongly enforced. Declarations are made available to the public. There are administrative sanctions for noncompliance that escalate from 30 days to one-year suspensions, include bans on signing government contracts, and culminate with being barred from holding government office.

The declaration process clearly identifies which assets, liabilities, and interests public officials must declare. However, it does not include assets and income of spouses and dependent children. The law requires officials to make financial disclosures the first quarter of every year, but there are no provisions for additional declarations when changes occur in their holdings or when they enter and leave office.

The High Commission on Anti-Corruption in the Prime Minister's Office coordinates with the executive, judicial, local, and regional governments and with Congress to develop anticorruption policy. The Comptroller General's Office implements and monitors anticorruption and disclosure processes required by law and informs Congress of its findings. Congress elects the comptroller, the head of this office, to serve for a seven-year term. The executive branch Unit for Prosecution of Corruption Crimes reports to the minister of justice and has the lead role in prosecuting corruption crimes. At year's end cases from the previous executive administration were pending and continued under investigation. All judicial districts review corruption cases in penal courts except Lima, which has a specialized anticorruption court in its superior court. Agencies actively worked with civil society groups and operated freely and independently.

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



The law allows a narrow list of exceptions outlining grounds for nondisclosure that includes classified and protected information such as topics concerning national security, intelligence, police investigations, and advanced technology. The law requires officials to meet a reasonable timeline to disclose financial information, at the beginning of the first quarter of every year, and does not require the official to bear any processing fees. The home government agency is required to cover reproduction costs of the information as specified in procedural guidelines for every federal agency. The law imposes administrative, but not criminal, sanctions for noncompliance. The law allows for appeals of disclosure denials.

The Ombudsman's Office was active in public outreach to increase public awareness of rights and access to information.

On December 9, the government published its 2012-16 national anticorruption plan. The High Commission on Anti-Corruption, a forum for dialogue between civil society and government, including the executive branch, the judiciary, Congress, and the Comptroller General's Office, approved the plan in November.

On December 5, the Supreme Court sentenced Cesar Saucedo, Alberto Pandolfi, and Jorge Baca Campodonico, all former ministers during the Fujimori administration, for complicity in collusion of the purchase of military aircraft. Saucedo was sentenced to five years in prison, although he could be released much earlier for time served. Pandolfi and Baca Campodonico received suspended sentences.

On December 29, the government created a registry of civil servants expelled from public administration for irregularities or mismanagement.

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

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

In November the government underwent its Universal Periodic Review at the UN. Final approval of the review was scheduled for an ordinary session in February 2013.

Human rights activists expressed concern about their safety while working, particularly in situations of social unrest such as the antimining protests in Cajamarca. They also mentioned harassment by locally elected authorities in places where there were charges of corruption. The activists claimed that the slow, ineffective process for sanctioning harassers fostered impunity.

Government Human Rights Bodies: The Ministry of Justice and Human Rights and Vice Ministry of Human Rights and Access to Justice oversee human rights issues at the national level.

The independent Office of the Ombudsman operated without government or party interference and was considered effective. However, the entity operated under an acting ombudsman for the entire year, due to Congress's failure to appoint a permanent ombudsman. During the year the office issued two reports with recommendations on intercultural/bilingual education and abandoned children. The government took account of these recommendations to varying degrees.

Congressional committees included Justice and Human Rights; Women and the Family; Indigenous, Amazonian, and Andean Populations, Environment, and Ecology; Health and Population; and Social Inclusion and Persons with Disabilities.

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

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

### **Women**

Rape and Domestic Violence: The legal framework governing women's rights and protections is comprehensive and well defined. Application and enforcement of the law, however, was severely lacking. The law criminalizes rape, including spousal rape, with penalties of six to eight years in prison, but enforcement was ineffective. The Ministry of Women and Vulnerable Populations (MIMP) reported 2,431 cases of rape nationwide through October, but observers maintained that rape was underreported due to a fear of retribution, including further violence and

stigma. There were no available statistics on abusers prosecuted, convicted, or punished.

The law prohibits domestic violence, and penalties range from one month to six years in prison. The law authorizes judges and prosecutors to prevent the convicted spouse or parent from returning to the family home and permits the victim's relatives and unrelated persons living in the home to file complaints of domestic violence. It also allows health professionals to document injuries. The law requires police investigation of domestic violence to take place within five days and obliges authorities to extend protection to female victims of domestic violence. There were no statistics available on the number of men sentenced for crimes related to domestic violence.

Violence against women and girls--including rape; spousal abuse; and sexual, physical, and mental abuse--remained very serious national problems. MIMP reported that an average of seven women died per month as a result of domestic violence and documented more than 35,000 reported cases of violence against women through October. Insensitivity on the part of law enforcement and judicial authorities toward female victims contributed to a societal attitude of permissiveness toward abuse. MIMP reported 63 actual and 76 attempted femicides as of October. Femicide is incorporated into the criminal code, which provides for a minimum sentence of 15 years' imprisonment for those convicted of killing a woman who is an immediate relative, spouse, or partner. In November Congress modified a 2011 femicide law, broadening the definition of femicide and providing sentences of up to life in prison for those whose victim is a minor, pregnant, or disabled.

Many domestic abuse cases went unreported, and NGOs stated that the majority of reported cases did not result in formal charges due to fear of retaliation or the expense of filing a complaint. The protections offered were limited because of legal delays and ambiguities in the law. Shelters for those affected by domestic violence were in short supply and did not adequately protect and support victims.

MIMP operated the Women's Emergency Program, which included 168 centers that combined police, prosecutors, counselors, and public welfare agents to help victims of domestic abuse. It also addressed the legal, psychological, social, and medical problems victims of domestic violence face. In addition the ministry operated a toll-free hotline.

MIMP continued efforts to sensitize government employees and the citizenry to domestic violence. The government continued to implement a broad national plan for 2009-15 to address violence in the family and against women. Nonetheless, NGOs and the ombudsman asserted that police officers reacted indifferently to charges of domestic violence, despite legal requirements to investigate such complaints.

Sexual Harassment: Sexual harassment was a serious problem. The law defines sexual harassment not as a criminal offense but rather as a labor rights violation subject to administrative punishment, which depends on the professional situation in which the violation occurred. Government enforcement was minimally effective. The ability of women to report sexual harassment was hampered by the undue burden on the victims themselves to prove their cases and by the fear of retribution.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children free from discrimination, and they generally had the means and information to do so. Access to information on contraception and family planning was widespread. According to UN estimates, 84 percent of births were attended by skilled health personnel, and 50 percent of women ages 15 to 49 used a modern method of contraception in 2011.

Discrimination: The law provides for equality between men and women and prohibits discrimination against women with regard to marriage, divorce, and property rights. Women from the upper and upper-middle classes assumed leadership roles in companies and government agencies. The law prohibits sexual discrimination in employment or educational advertisements and the arbitrary dismissal of pregnant women, but in practice discrimination continued. The law stipulates that women should receive equal pay for equal work, but women often were paid less than men for comparable work. Societal prejudice and discrimination also led to disproportionate poverty and unemployment rates for women. Women were more likely to work in the informal sector or in less secure occupations such as maids, factory workers, or street vendors, and they were more likely to be illiterate due to lack of formal education.

## **Children**

Birth Registration: Citizenship is derived either by birth within the country's territory or from one's parents. There were problems with government registration

of births (see section 2.d.). Failure to register made it more difficult to obtain public services, such as education and health care.

Education: The constitution stipulates that primary and secondary education is compulsory and universal from age six through 16 and free through the secondary level. However, citizens and NGOs asserted that neither was completely free in practice, and fees for parental associations, administration, and educational materials greatly reduced access for lower-income families.

Child Abuse: Violence against and sexual abuse of children were serious problems. MIMP reported 1,504 cases of violence against or sexual abuse of children five years of age and younger and 3,626 cases of abuse of children ages six to 11 as of October. Many abuse cases went unreported because societal norms viewed such abuse as a family problem to be resolved privately.

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

Child Marriage: The legal minimum age of marriage is 18. The law allows minors over 16 years old to marry with civil judge authorization. The government does not keep national statistics on child marriage, but according to UNICEF, 20 percent of women between the ages of 20 and 24 were married or in union before the age of 18. The government recognizes married minors as adults and grants them the right to vote.

Sexual Exploitation of Children: The law prohibits child prostitution, penalizing perpetrators with five to 12 years in prison. There were many known cases of prostitution of minors, and the country was a destination for child sex tourism, with Lima, Cusco, and Iquitos as the principal locations. Involvement in child sex tourism is punishable by four to 10 years in prison. The Foreign Trade and Tourism Ministry disseminated information about the problem.

The minimum age for consensual sex is 18. Statutory rape law stipulates different rape offenses, including rape of a minor younger than 14, with penalties ranging from 25 years to life in prison. The penalty for conviction of involvement in child pornography is four to 12 years' imprisonment and a fine.

Child Soldiers: The minimum age for recruitment is 18. The country's military bars the enlistment of minors, including those who obtain their parents' permission. The Human Rights Ombudsman's Office reported four cases in which the army admitted underage soldiers, generally recruits who misrepresented their age, a marked decrease from the 150 cases reported in 2009. There were no reports of persons under 18 taking part in hostilities as part of a governmental armed force.

There were cases of both forced and voluntary use of minors by the outlawed Shining Path organization. Reports persisted that the Shining Path used children in both combat and drug-trafficking activities. It appeared some of these children had been kidnapped from local towns, while others apparently were children of Shining Path members. On July 6, police and army forces rescued 11 children, ages two to seven, from a Shining Path encampment. At year's end the children remained in a shelter in Lima. On September 8 in the Junin Region, police arrested two women alleged to be involved in Shining Path and also took custody of three of one woman's children, ages 10 months to eight years. Their eight-year-old sister was shot and killed in the process. By year's end authorities had dropped their investigation of the women but continued examining the circumstances of the young girl's death.

See also the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

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

### **Anti-Semitism**

Estimates of the Jewish population ranged from 2,500 to 4,000 persons. There were no reports of anti-Semitic acts.

## Trafficking in Persons

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

## Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transport, access to health care, and provisions of state services, and it establishes infractions and sanctions for noncompliance with specified norms. The constitution addresses social security, health, education, and employment matters for persons with disabilities as well as their right to engage in business, trade, and industry. The law provides for the protection, care, rehabilitation, security, and social inclusion of persons with disabilities; mandates that public spaces be free of barriers and accessible to persons with disabilities; and provides for the appointment of a disability rights specialist in the Ombudsman's Office. In addition the law mandates that Internet sites maintained by governmental, institutional, and other service providers be accessible to persons with disabilities and requires accessibility through the inclusion of sign language or subtitles in all educational and cultural programs on public television and in media alternatives in all public libraries.

In June Congress passed a new General Law on Persons with Disabilities. The law stipulates that businesses whose workforces include more than 30 percent of employees with disabilities are to have greater access to credit and be given preference in government bidding processes. The law provides for the creation of a National System for the Integration of Persons with Disabilities to enable compliance with the new law. The law also established employment quotas for persons with disabilities: for private businesses with more than 50 employees, the quota is 3 percent; for public-sector organizations, it is 5 percent. The employment quota caused strong objection from the private business community.

In practice the government devoted limited resources to enforcement and training, and many persons with physical disabilities remained economically and socially marginalized. Governments at the national, regional, and local levels made little effort to provide access to public buildings. There were few interpreters for the deaf in government offices and no access to recordings or Braille for the blind. The majority of government Web sites remained inaccessible to persons with

disabilities, and only the congressional television channel offered sign language interpretation.

The government failed to enforce laws safeguarding and attending to persons with mental disabilities in situations of social abandonment. The number of medical personnel providing services in psychiatric institutions was insufficient to care for all patients.

A December 2011 ombudsman report stated that many children with disabilities were unable to attend public schools due to lack of physical access. Nearly half of the country's public schools had no entrance ramps, and 88 percent lacked restrooms usable by persons with disabilities. Relatively few teachers (39 percent) had received any training in inclusive education.

### **National/Racial/Ethnic Minorities**

The law provides all citizens equality before the law and forbids discrimination on the basis of race, national origin, or language. However, persons of African (Afro-Peruvian) descent faced societal discrimination and prejudice. Despite constituting a large minority, Afro-Peruvians generally did not hold leadership positions in government, business, or the military. Few Afro-Peruvians served as officers in the navy or air force.

A 2011 ombudsman report on the Afro-Peruvian community cited structural discrimination and social exclusion as key barriers to integration into society and stated that Afro-Peruvians had particular difficulty accessing health and education services. NGOs alleged that employers often found ways to refuse to hire Afro-Peruvians or relegated them to low-paying service positions. The law prohibits the mention of race in job advertisements, although employers often required applicants to submit photographs.

### **Indigenous People**

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

The constitution and law provide that all citizens have the right to use their own language before any authority, using an interpreter. Spanish and Quechua are official languages, but the government also recognizes 49 other indigenous



languages. The National Program of Mobilization for Literacy continued teaching basic literacy and mathematics to poor persons throughout the country. However, language barriers and inadequate infrastructure in indigenous communities impeded the full participation of indigenous persons in the political process. Indigenous women, especially from poor and rural areas, were particularly marginalized.

Many indigenous persons lacked identity documents. In many cases there were no government offices in the areas where they lived; in some instances government officials allegedly sought bribes in exchange for documents, which indigenous persons were unable or unwilling to pay. Without identity cards they were unable to exercise basic rights, such as voting and gaining access to health services and education. The infant mortality rate (13 deaths per 1,000 live births) was higher in rural areas, where most indigenous persons lived, than in urban areas (six deaths per 1,000 live births), a difference mainly related to the low socioeconomic status of indigenous persons. Public health centers were located primarily in urban areas, but during the year the government further expanded them to rural areas and increased roving teams.

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

On April 3, the government approved the regulations required to implement the 2011 Prior Consultation Law, which requires the government to conduct consultations with indigenous communities before extractive industry activities may proceed. The regulations require the government to establish a database of indigenous communities entitled to consultation under the law and to produce a detailed implementation guide to facilitate government and private-sector compliance under the law. At year's end neither the database nor the guide had been published. Several indigenous organizations and the ombudsman expressed

concern that indigenous communities did not have sufficient training and capacity to appropriately engage in consultations with government and industry. The first consultation began in December in Apurimac but was not complete at year's end.

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

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

There are no laws specifically prohibiting discrimination against persons based on sexual orientation, and the ombudsman reported such discrimination occurred occasionally. The Ministry of Interior's *Handbook of Human Rights Applied to the Civil Police* stipulates that police must respect human rights, especially of the most vulnerable groups, and refers explicitly to the rights of lesbian, gay, bisexual, and transgender (LGBT) individuals. However, during the year there were instances of official and societal discrimination based on sexual orientation in employment, housing, and access to education or health care. Government authorities, including police, sometimes harassed and abused LGBT persons.

For the first time, LGBT communities held democratic elections for representatives in Loreto, Ucayali, San Martin, Ica, and Lima to liaise with government on their behalf. More than 800 LGBT individuals participated in the November 22 elections.

### **Other Societal Violence or Discrimination**

Persons with HIV/AIDS faced discrimination and harassment, including societal discrimination for employment, housing, and general social inclusion. The Ministry of Health executed policies to combat discrimination based on HIV/AIDS status, including a four-year plan to prevent and control HIV/AIDS. Some of these policies enjoyed success, such as the treatment of HIV/AIDS, but observers maintained that education and prevention programs needed strengthening.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

With certain limitations, labor laws and regulations protect freedom of association, the right to strike, and collective bargaining, and they prohibit employer intimidation and other forms of antiunion discrimination. Regulations allow workers to form unions without seeking prior authorization. However, the minimum membership required by law to form a union--20 employees for a workplace-level union and 50 employees for a sector-wide union--was prohibitively high in some instances, particularly for small and medium-sized enterprises. The law specifies that public- and private-sector workers have the right to organize, bargain collectively, and strike, but it stipulates that the right to strike must be "in harmony with broader social objectives." Judges, prosecutors, and members of the police and military are not permitted to form or join unions.

The law allows unions to declare a strike in accordance with their statutes. Private- and public-sector union workers must give advance notice of a strike--at least five working days for private sector workers and 10 for the public sector--to employers and the Ministry of Labor. The law also allows nonunion workers to declare a strike with a majority vote as long as the written voting record is notarized and announced at least five working days prior to a strike. During the year the Ministry of Labor registered 89 national-level strikes, of which 65 were declared illegal for failure to meet legal requirements.

Unions in essential public services, as determined by the government, are permitted to call a strike but must provide 10 working days' notice, receive the approval of the Ministry of Labor, have the strike approved by a simple majority of workers, and provide a sufficient number of workers during a strike to maintain operations, as jointly determined by the union and labor authorities on an annual basis. Workers who strike legally cannot be fired for striking, but illegal strikers in the private sector can be fired on the fourth day of absenteeism and public-sector strikers after an administrative procedure.

Unless there is a preexisting labor contract covering an occupation or industry as a whole, unions must negotiate with companies individually. The law establishes processes for direct negotiations and conciliation. If those fail, workers can declare a strike or request arbitration. A 2011 decree outlines the process that authorizes the use of arbitration to end collective labor disputes. The decree gives a party the ability to compel the other party to submit to arbitration (whether worker- or employer-initiated) if either of the parties cannot reach an agreement in the first collective bargaining negotiation, or if a party does not engage in good faith during collective bargaining by delaying, hindering, or avoiding an agreement. If the parties disagree over whether or not a prerequisite for binding

arbitration has been met, the law also allows a party to submit the matter to independent, nongovernmental arbitrators for an initial decision. The Ministry of Labor restructured the timeline with the goal to resolve labor conflicts in an average of six months.

The law prohibits employers from refusing to hire an individual because of union membership and also prohibits other forms of antiunion discrimination. Workers fired for union activity have the right to reinstatement. However, the law allows companies to fire employees without justification if they offer severance pay as fixed by law.

The law forbids businesses from hiring temporary workers to perform core company functions, requires businesses to monitor their contractors with respect to labor rights, and imposes liability on businesses for the actions of their contractors. The law governing the general private-sector labor regime sets out nine different categories of employment contracts that companies may use to hire workers based on particular circumstances. Sector-specific laws limit the associational rights of workers in nontraditional export sectors (e.g., fishing, wood and paper, nonmetallic minerals, jewelry, textile, and the agriculture industry). The law allows employers to hire workers on a series of short-term contracts without requiring that the workers be made permanent, creating conditions that in effect prevent organizing or affiliating with unions.

Despite a 2011 decree that provides employees in the Administrative Service Contracts short-term employment hiring system (CAS) the right to form unions, hundreds of unionized CAS workers did not have their contracts renewed at the end of 2011 and through the first few months of 2012. Reportedly, unionized CAS workers were disproportionately not rehired, compared with nonunionized CAS workers. On March 26, Congress passed Law 29849, which aims to eliminate over time the CAS that applies to public-sector workers; no specific date for elimination is included in the law. CAS workers made up almost 20 percent of the 900,000 members of the public-sector workforce. CAS worker unions criticized the law, stating that it did not provide employment stability until 2013, leaves room for public employers to limit benefits according to budget availability, and leaves CAS workers vulnerable to unjustified contract cancellation, which may violate constitutional protection against arbitrary dismissal.

The government did not effectively enforce the law in all cases. Labor conflicts were not always resolved within six months as required by law. Workers faced prolonged judicial processes and lack of enforcement following strike-related

dismissals. A study during the year by local and international NGOs of 53 labor rights cases found three instances of noncompliance with arbitrators' decisions. The study found that employers challenged arbitrator decisions based on flaws in the formal notification of the interested parties, violation of budget laws (in the case of public-sector employers), and lack of coherence between the original bargaining petition and the final decision presented by the arbitrator panel. The study assessed that protective measures employers file in court that conflict with arbitrator decisions are a violation of arbitral jurisdiction.

Workers faced some challenges in exercising their rights of freedom of association and collective bargaining. Unions were generally independent of government and political parties. Employers continued to dismiss workers for exercising the right to strike. Dismissal of striking workers and delays in reinstatement of these workers, in both legal and illegal strikes, were the main tactic used by employers to dissuade workers from going on strike.

The National Textile Workers Union Federation reported that in March Textiles Camones fired 215 workers for forming a union. At year's end 115 of the workers had been rehired, but only after signing and sending a notarized letter to the union renouncing their membership. In September the textile company Topy Top fired 52 workers after the courts denied a legal request for protection from antiunion harassment at the plant. Topy Top reinstated the workers one week later after receiving public and international pressure.

Significant delays in the collective bargaining process due to employers' lack of interest in concluding agreements proved to be a common obstacle to compliance with workers' right to bargain collectively. For instance, in the past the National Tax Administration (SUNAT) failed to comply with certain elements of laws related to collective bargaining, including deadlines for launching collective bargaining negotiations for the 2008-09 and 2010-11 periods. On March 16, SUNAT and the National Union of Tax Administration Workers (SINAUT) attended arbitration for the 2008-09 bargaining period. On March 29, an arbitral panel issued SINAUT each of the requests contained in its bargaining proposal, including the economic issues, although in amounts less than the union had requested. On April 12, SUNAT appealed this award; the appeal was pending at year's end. For the 2010-11 bargaining period, SUNAT and SINAUT each appointed an arbitrator, but an arbitral panel had not met by year's end.

Workers employed under initiatives to promote the textile and apparel and agriculture industries faced obstacles to exercise the right to collective bargaining.

Palm oil workers employed by Grupo Romero in Uchiza, San Martin, and workers at Agricola Viru in La Libertad were unable to obtain the financial information legally required to negotiate a collective agreement successfully, and they had not concluded an agreement seven months after bargaining began.

Employers engaged in antiunion practices, including using subcontracting to avoid direct employment relationships and the associated legal requirements. Such subcontracting also limited the size of the company workforce, making it more difficult to reach the 20-employee threshold necessary to form a union. Many businesses hired temporary or contract workers who were effectively barred from participating in unions due to fear that their contracts might not be renewed. Employers also circumvented restrictions regarding hiring temporary workers to perform core company functions in a number of ways.

Temporary, project, or seasonal contracts typically dissuaded workers from unionizing and left them vulnerable to nonrenewal of contracts. In March the firm Ingeneria, Quimicos, Fluidos, S.A. dismissed nine union leaders the same day they filed for union registration. The Sindicato de Trabajadores de Telefonica en el Peru (telephone workers' union) reported that on August 7, the telecommunications company terminated 31 unionized technicians on a temporary contract after workers conducted a one-day strike calling for renewal of short-term contracts.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but there was evidence that the government did not effectively enforce the law. The Ministry of Labor conducted two inspections to address forced labor and reported identifying and freeing nine victims of forced labor during the year. Eight individuals were arrested for involvement in forced labor. At year's end all eight cases were pending in the judiciary. The Ministry of Labor conducted 572 training sessions with 549 companies to raise awareness of forced labor and applicable laws.

Thousands of persons were estimated to be subjected to conditions of forced labor, mainly in mining, logging, agriculture, brick making, and domestic service. While information on victims was lacking, it was believed that men and boys were subjected to forced labor in mining (including gold mining), logging, and brick making, while women were most often found in domestic service. Both men and women were often found performing forced labor in agriculture, including processing Brazil nuts.

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

### **c. Prohibition of Child Labor and Minimum Age for Employment**

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

The Ministry of Labor is required to issue permits authorizing any persons under age 18 to work legally. Parents must apply for the permits, and employers must have a permit on file to hire a youth.

The law specifically prohibits a number of occupations considered hazardous for children, including working underground, lifting or carrying heavy weights, accepting responsibility for the safety of others, and working at night. The law prohibits work that jeopardizes the health of children and adolescents; puts their physical, mental, and emotional development at risk; or prevents regular attendance at school.

The Ministry of Labor is responsible for enforcing child labor laws and in September published its 2012-16 national strategy to combat child labor. However, there was evidence that the law was not effectively enforced. The ministry stated that inspectors conducted routine visits without notice to areas where persons or organizations reported child labor problems. The government reported that it fined and suspended operations of firms that violated labor laws. Authorities fined 52 businesses 246,649 new soles (\$96,725) for hiring minors illegally or for not seeking the proper authorization.

The Office of the Ombudsman for Children and Adolescents (DEMUNA) worked with the Ministry of Labor to document complaints regarding violations of child labor laws. There were more than 2,240 DEMUNA offices in municipalities throughout the country. DEMUNA also operated a decentralized child labor reporting and tracking system. MIMP administered a program that sent specialized teachers to the streets to provide education and support to minors involved in

begging and other kinds of work. MIMP also continued to implement the Educadores de Calle program, a social program that assisted street children ages six to 17 with workshops and health, education, and legal services. The ministry continued the Vamos Peru program, which focused on job training, technical assistance to entrepreneurs, and job placement; and the Peru Responsible program, which aimed at fostering corporate social responsibility to create formal employment for youth.

Child labor remained a serious problem, especially in the informal sector. In 2010 the International Labor Organization estimated there were 2.8 million working children in the country, with 67.9 percent (1.9 million) performing the worst forms of child labor. Child labor was a serious problem in the informal sectors, including in gold mining, brick and fireworks manufacturing, stone extraction, timber, and agriculture, including the production of Brazil nuts and coca. According to media reports, children worked in hazardous conditions, including approximately 141,000 on the streets, 101,000 at night, and 87,000 with trash. In many cases the child worked alongside the parents in a family business, usually in areas and sectors cited above.

A local NGO and the Peruvian National Statistics Institute estimated there were 1.1 million children working in exploitative child labor during the year. In February there were media reports of children being exploited by local residents and parents near the northern frontier and forced into street vending, begging, bartending, and drug production.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

The statutory monthly minimum wage was 750 new soles (approximately \$294). The government estimated the poverty line to be approximately 257 new soles (\$100) a month per person, although it varied by region. The law provides for a 48-hour workweek and one day of rest and requires companies to pay overtime for more than eight hours of work per day and additional compensation for work at night. There is no prohibition on excessive compulsory overtime.

The law stipulates certain rights and benefits to which adult domestic workers are entitled, such as an eight-hour working day, no work on public holidays, 15 days of paid annual vacation, and salary bonuses in July and December. A 2009 decree



prohibits discrimination against domestic workers and any requirement by employers for their domestic workers to wear uniforms in public places. Several violations of both provisions were reported during the year.

Law 29849, passed in March, provides that CAS workers who meet minimum service requirements have access to the full 30 days of vacation, June and December bonuses, and up to three months of severance pay in the case of unjustified dismissals.

On April 25, the Ministry of Labor issued Supreme Decree 005 containing the implementing regulations for the 2011 Law on Workplace Health and Safety, which created a National System for Health and Safety in the Workplace within the Ministry of Labor. The National Council on Health and Security met three times, and the government established three regional councils in Lambayeque, Lima, and Huacho. These bodies incorporate the participation of employers and workers, including unions, who traditionally had no voice on these matters. The law also provides for heavier fines and criminal sanctions for violations. In cases of infractions, injury, or deaths of workers or subcontractors, the penalty is five to 10 years' imprisonment. Workplace labor, health, and safety committees were beginning to be developed across the country. Initial anecdotal evidence from both union and Labor Ministry sources suggested there was a learning period during which employers were becoming accustomed to recognizing the authority of independently elected worker representatives.

The Ministry of Labor enforced the minimum wage only in the formal sector. Many workers in the unregulated informal sector, approximately 60 percent of the total labor force, most of whom were self-employed, received less. The government often did not devote sufficient personnel, technical, and financial resources to enforce occupational safety and health regulations and other labor laws. There were 411 labor inspectors focused on the formal sector, 23 of whom were based in regions outside of Lima. Labor sources claimed that many inspectors were forced to pay for transportation to sites and often were harassed or refused entry by businesses. Many fines went uncollected, in part because the ministry lacked an efficient tracking system and at times due to a lack of political will, according to a local labor NGO. According to the ministry, its inspectors in Lima received 14,119 external complaints requesting inspections, and the ministry conducted 5,506 inspections at worksites. The ministry levied approximately 11.3 million new soles (\$4.4 million) in fines on 1,666 companies in Lima for failure to place employees on labor rolls and for health and safety violations. Noncompliance with the law is a punishable infraction that carries fines from 1,110

to 37,000 new soles (\$435 to \$14,510). Penalties were insufficient to deter violations.

Labor, businesses, and the government reported that the majority of companies in the formal sector generally complied with the law, but employers frequently required long hours from domestic workers and paid low wages. The Ministry of Labor and several unions continued a campaign to inform domestic workers of their rights. Allegations of abuse of subcontracted workers in the areas of wage and hour violations and associational rights continued to be reported. A local NGO reported that particularly problematic were gasoline stations, where workers frequently worked more than eight hours but in some cases were not paid overtime for extra hours.

The National Federation of Mineworkers reported that 53 miners (34 of whom were subcontractors) died in mining accidents in the formal mining sector, mainly as a result of rockslides, falls, and asphyxiation. In the construction sector, 24 workers died in workplace accidents. In cases of industrial accidents, an agreement between the employer and worker usually determined compensation. A worker does not need to prove an employer's culpability to obtain compensation for work-related injuries.