

# URUGUAY 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Oriental Republic of Uruguay is a constitutional republic with an elected president and a bicameral legislature. The country has a multiparty electoral system with three major parties. In November 2009 in a free and fair runoff election, Jose Mujica won a five-year presidential term and his Frente Amplio party a majority in parliament. Mujica assumed office in March 2010. Security forces reported to civilian authorities.

Principal human rights problems included severe overcrowding and harsh conditions in the prison system, as well as violence against women.

Other problems included widespread use of extended pretrial detention, some trafficking in persons, and societal discrimination against the Afro-Uruguayan minority.

The government took steps to prosecute officials who committed abuses, and there were no reports of impunity during the year. The law classifies crimes committed during the military dictatorship (1973-85) as crimes against humanity.

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

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

There were no reports that the government or its agents committed arbitrary or unlawful killings.

The government continued to investigate the serious human rights violations committed during the 1973-85 military dictatorship. During the year there were several challenges to the June 2011 presidential decree that effectively overturned the Expiry Law, which had granted amnesty to officials following the 1985 return to democracy; appeals on the issue were pending with the Supreme Court of Justice.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

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

In August Rocha Province authorities prosecuted two police officers for mistreating a suspect arrested for contraband. The officers reportedly hit the man for not responding to their questions before noticing that the individual was deaf. The Ministry of the Interior reported that during the year the judiciary prosecuted 76 police officers for bribe solicitation, extortion, and trafficking drugs in detention centers.

Five Uruguayan marines, part of the UN peacekeeping mission in Haiti, were accused of sexually abusing an 18-year-old Haitian boy on July 20. The marines were repatriated on September 16 and tried by the Uruguayan Military Tribunal. The court adopted the preliminary findings of the UN investigation, concluding there were no signs of sexual or physical violence. However, the judge found that the marines had violated several rules of conduct and, on September 18, convicted them of offenses such as “abandonment of post” and “omission of service.” A civilian criminal court also charged the marines for assault and, on September 25, sentenced four of the five to prison, with possible terms ranging from three months to three years.

### **Prison and Detention Center Conditions**

Prison conditions continued to be harsh and life threatening. Problems included police corruption, firearms, and drugs found inside the premises, increasing activity of narcotics gangs within the prisons, overcrowding, poor building maintenance and services, and excessive use of force. The increasing crime rate and high recidivism led to overcrowding (prison population in some facilities between 120 and 300 percent of capacity) and understaffing in some facilities.

Physical Conditions: The government reported 9,560 prisoners (8,652 men and 908 women), of whom 35 percent had been sentenced and 65 percent were awaiting trial. Facilities had a design capacity for approximately 7,600 inmates. Pretrial detainees and convicted criminals were held together, but female and male prisoners were held in separate facilities. Prison conditions for women and men did not differ appreciably. The Uruguayan Institute for Children and Adolescents (INAU) reported that 496 juveniles were incarcerated in a system with a maximum

capacity of 330 places. Female juvenile criminals were processed and held in separate detention centers. The prison system ombudsman does not address the confinement of juvenile offenders.

Facilities often had inadequate sanitation, ventilation, temperature, lighting, and access to potable water. Fire hazards continued due to handcrafted heaters that often set makeshift partitions on fire. Additionally, many basic necessities were lacking. Prisoners depended on visitors for clothing and enough food to reach the daily minimum caloric intake. Prisoner-on-prisoner violence continued, partially due to the lack of a separate, high-security prison for violent criminals. There were 13 deaths in prisons during the year. In September the Ministry of Interior dismissed the director of Libertad Prison for failure to control abusive actions of prison guards.

UN Special Rapporteur Against Torture Juan Mendez visited Montevideo in December. After visiting four adult prisons and seven penal centers for adolescents, he concluded that “a state of emergency prevails.” He reported continued serious problems of overcrowding, lack of adequate hygiene, excessive use of antipsychotic drugs, and insufficiently trained staff. He recognized the work done by authorities but was disappointed by the lack of progress since his predecessor’s visit in 2009.

The penitentiary system experienced a series of riots that destroyed numerous prison spaces and damaged newly built premises and infrastructure, aggravating overcrowding. The Union of Police Officers claimed that underpaid prison guards worked excessive hours in subhuman conditions and faced constant lethal threats.

In January three inmates perished in a prison fire after a gang fight in the Comcar Prison, a medium-security facility near Montevideo.

On April 20, authorities suspended visits in Libertad Prison after an inmate shot two guards, killing one and severely wounding the other. In August the Association of Public Attorneys stated that after the shooting incident, some of their members had to meet with their defendants inside their cells because prison guards would not move prisoners within the premises.

On April 25, hundreds of prisoners rioted and set fire to two wings of Comcar Prison to protest the suspension of family member visits. Ministry of Interior officials later acknowledged that for several weeks guards had not patrolled areas of Comcar's modules 4 and 5 because of “a lack of security” and that for more than

three hours, Comcar inmates controlled sections of the prison, including its internal walkie-talkie communications system. The government was unable to quickly relocate the 1,200 Comcar prisoners displaced by the destruction of 800 places during the riots and temporarily left them outside on a prison patio (covered with a canvas but exposed to wintry conditions). In the weeks after the riots at Comcar and the protests at the Female Corrections and Rehabilitation Facility (CNR), authorities found weapons and handguns registered to contract guards in prisoner cells in Comcar.

On April 27, after learning of the Comcar uprising, 90 of the 370 CNR inmates, initiated a hunger strike by sewing shut their mouths to protest the suspension of family visits and the slow relocation of Comcar prisoners. The inmates burned furniture and mattresses. The riot caused injuries to two police officers and a firefighter.

In December the ombudsman alerted authorities about prostitution rings in Comcar and Canelones prisons. Drug dealers allegedly coerced addict prisoners to pay their drug debts by obliging family members to perform sexual intercourse with the dealers. The report stated that the system failed to prevent sexual abuse of new inmates and to provide adequate protection for victims reporting sexual abuse.

Administration: Recordkeeping on prisoners was adequate and included files on each inmate, which note personal data, police record, and sentence. Authorities sometimes used alternatives to sentencing, such as community service. The General Assembly elects a prison system ombudsman, who is responsible for monitoring and reporting to parliament on prison conditions in the country's 29 detention centers. This ombudsman receives complaints from prisoners and may present reports and recommendations but may not act on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding. The ombudsman presents an annual report with observations and recommendations.

Visitors had reasonable access to prisoners and detainees, and prisoners were permitted religious observance.

The government investigated and monitored prison and detention center conditions. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhuman conditions.

Monitoring: The government allowed general prison visits by independent human rights observers, nongovernmental organizations (NGOs), religious congregations, and foreign diplomats, and such visits occurred unimpeded during the year.

Improvements: The prison ombudsman's May report indicated that application of a law for rehabilitation through work permitted prisoners to reduce their prison sentence by two days for each work or study day. The ombudsman reported that 23 percent of prisoners in the 29 detention centers studied or worked; in some rural prisons, up to 80 percent worked or studied.

In February Ministry of Interior authorities closed the outdated and overcrowded prison of Las Rosas in the province of Maldonado and relocated 507 prisoners to a newly built prison with the same name.

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

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

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

The National Police under the Ministry of Interior maintain internal security. Civilian authorities maintained effective control over the National Police, and the government has effective mechanisms to investigate and punish abuse and corruption. The armed forces under the Ministry of National Defense are responsible for external security and have some domestic responsibilities as guardians of the outside perimeter of six prisons. There were no reports of impunity involving the police and security forces during the year.

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

Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official and brought before an independent judiciary. The law provides detainees with the right to a prompt judicial determination of the legality of detention and requires that the detaining authority explain the legal grounds for the detention. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. The law stipulates that confessions obtained by police prior to a detainee's appearance before a judge and attorney are not valid. A judge must

investigate any detainee's claim of mistreatment. A lawyer assigned to each police station reports to the Ministry of the Interior concerning treatment of detainees.

For any detainee who cannot afford a lawyer, the court appoints a public defender at no cost to the detainee. Judges rarely granted bail for persons accused of crimes punishable by at least two years in prison. Most persons facing lesser charges were not jailed. Detainees were allowed prompt access to family members.

Pretrial Detention: In April the former UN special rapporteur against torture, Manfred Nowak, led an evaluation of progress made following his 2009 assessment of the prison system. While acknowledging some progress, Nowak again stressed concern over the high percentage of prisoners awaiting trial and the "widespread use of pretrial detention for periods that often exceed what is reasonable." Some detainees spent years in jail awaiting trial, and the uncertainty and length of detention contributed to tension and psychological stress in the prisons. The use of pretrial detention is mandatory for particular crimes, and lengthy legal procedures, large numbers of detainees, and staff shortages in the judicial system caused trial delays.

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

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

#### **Trial Procedures**

The constitution provides that no individual may be imprisoned without a prosecution and trial. Defendants enjoy the right to presumption of innocence, to be informed promptly and in detail of the charges, and to adequate time and facilities to prepare defense. Juries are not used; trial proceedings usually consist of written arguments to the judge, which normally were not made public. Defendants have the right to consult an attorney in a timely manner, and those who do not have an attorney are provided one at the state's expense. Only the judge, prosecutor, and defense attorney have access to all documents that form part of the written record. Defendants can confront or question witnesses against them and/or present witnesses and evidence on their own behalf. Individual judges may elect to hear oral arguments, but most judges chose the written method, a major factor slowing down the judicial process. Defendants have a right of appeal. The law extends these rights to all citizens.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

There are transparent administrative procedures to handle complaints of abuse by government agents. An independent and impartial judiciary handles civil disputes, but its decisions were ineffectively enforced. Local police lacked the training and manpower to enforce restraining orders, which were often generated during civil disputes related to domestic violence.

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

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

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

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

The law provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and 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 International Telecommunication Union reported that 51 percent of the population used the Internet and 39 percent of households had access to the Internet in 2011.

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

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

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

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

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

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 and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

Exile: The law provides that in extreme cases of national emergency, an individual may be given the option to leave the country as an alternative to trial or imprisonment, but this option has not been exercised in at least two decades.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of refugee status. Through its Refugee Commission, the government has established a system for adjudicating asylum claims, providing protection to refugees, and finding durable solutions, including resettlement.

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

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

### **Elections and Political Participation**

Recent Elections: In November 2009 Jose Mujica of the Frente Amplio (Broad Front) coalition won a five-year presidential term in a free and fair runoff election.

The runoff followed a series of party primaries in June 2009 and a free and fair first-round election among the four leading parties in October 2009. President Mujica took office in March 2010. In parliamentary elections in October 2009, the Frente Amplio won 16 of 30 seats in the Senate and 50 of 99 seats in the House of Representatives.

Participation of Women and Minorities: Women participated in the political process and government, although primarily at lower and middle levels. Four of 30 senators and 12 of 99 representatives were women. One of the 13 cabinet ministers was a woman. There were no members of minorities in parliament and one minority member in the cabinet.

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

The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively. There were some formal and informal reports of police corruption, which authorities addressed with appropriate legal action. In September authorities dismantled an operation in which INAU inspectors received bribes from bar owners to ignore the presence of minors drinking alcohol in their premises. The organized crime court convicted and sentenced to prison an INAU inspector and a lawyer.

The law requires income and asset disclosure by appointed and elected officials. Each year the presidentially appointed Transparency and Ethics Board lists the names of government officials expected to file a declaration on its Web page and informs the individuals' organizations of those expected to comply. The information in the declarations may be accessed by the incumbent, the judiciary, a special congressional committee, or the ethics board (by majority vote). The board may direct an official's office to retain 50 percent of the employee's salary until the declaration is presented, and it may publish in the federal register the names of those fail to comply.

The government requires all government agencies to produce regular public reports. All agencies complied with these reporting requirements.

The Public Information Access Law, which holds that public access to government information is a human right, promotes transparency of administrative procedures in government agencies and guarantees general access to public information. By law, public information includes all information held by a government entity (except information considered classified). The law requires government agencies

to make public their organizational charts, responsibilities, salaries, and budget allotment. Authorities effectively implemented the law; however, there were no public outreach activities to encourage its use.

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

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

Government Human Rights Bodies: In May the General Assembly appointed the first five-member board of the National Institute of Human Rights and Ombudsmanship, which a 2008 law created as an autonomous branch of congress. In October the institute presented a report on the country's commitments regarding migration and trafficking in persons. In December the entity announced receiving 105 complaints, primarily concerning alleged discrimination against Afro-Uruguayans and persons with disabilities.

The Commission Against Racism, Xenophobia, and All Forms of Discrimination, headed by the Ministry of Education and Culture's director for human rights, includes government, religious, and civil society representatives. From its creation in 2007 to September 2012, the commission investigated 121 cases of alleged discrimination. However, the commission has had no allocated budget since March 2010, and terms of its members have lapsed.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these prohibitions effectively, although societal discrimination against some groups persisted.

#### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape. The law allows for sentences of two to 12 years' imprisonment for a person found guilty of rape, and this law was effectively enforced. The Ministry of Interior reported 221 cases of rape and 74 cases of attempted rape in 2011. Ministry

officials believed some victims of rape did not report such incidents because of failure to understand their rights and fear of social stigma or retribution.

The law criminalizes domestic violence, including physical, psychological, and sexual violence, but victims without severe injuries often did not file complaints. Victims requiring hospitalization were more likely to receive follow-up assistance from healthcare and police authorities. The Interior Ministry's 2011 statistics reported 15,868 cases of domestic violence, of which 38 cases resulted in death. The law allows for sentences of six months to two years in prison for a person found guilty of committing an act of violence or making continued threats to cause bodily injury to persons related emotionally or legally to the perpetrator. In many instances courts did not apply criminal penalties. Civil courts decided most of the domestic cases during the year. Judges in these cases often issued restraining orders, which were difficult to enforce. In November the Ministry of Interior purchased electronic bracelets for a trial effort to assist courts in monitoring penalties imposed on perpetrators of domestic violence; however, five of the six judges in Montevideo expressed reservations about the legality of imposing the use of such bracelets. After the equipment had been tested and validated, beginning in December the Ministry of the Interior and the judiciary agreed to their use.

The government operated domestic violence units in police headquarters in the interior, which it funded and staffed according to the reported prevalence of domestic violence in each province. Five shelters were available to female victims of domestic violence, but most services were located in Montevideo.

The Montevideo municipal government funded a free nationwide hotline operated by trained NGO employees for victims of domestic violence, and the NGO Uruguayan Network Against Domestic Violence operated a hotline. The Ministry of Social Development, INAU, and NGOs operated shelters where abused women and their families could seek temporary refuge.

Sexual Harassment: The law prohibits sexual harassment in the workplace and punishes it by fines or dismissal. The law establishes guidelines for the prevention of sexual harassment in the workplace, as well as in student-professor relations, and defines a system of damages for victims. The Labor Ministry's Labor Inspection Bureau received 988 complaints of sexual harassment and discrimination in 2011; most cases occurred in the private sector.

Reproductive Rights: Couples and individuals had the right to decide freely the number, spacing, and timing of their children and had the information and means

to do so free from discrimination, coercion, and violence. Access to information on contraception, skilled attendance at delivery, and prenatal and postpartum care were widely available. Skilled personnel attended an estimated 75 percent of births.

Discrimination: By law women enjoy the same rights as men, including rights under family and property law. In practice women faced discrimination stemming from traditional attitudes and practices, and no gender discrimination cases have ever been litigated. The National Institute for Women supervised the work of the Tripartite Committee on Equal Opportunities and Employment, which includes a subcommittee on gender consideration in salaries and benefits. Women constituted almost half of the workforce but tended to be concentrated in lower-paying jobs, with salaries averaging 51 percent those of men.

## **Children**

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

Child Abuse: The Children's Rights Portal reported that abuse within the home and violence against children occurred frequently. A 2011 INAU committee report stated that 55 percent of cases assisted by INAU involved child abuse. The government sponsored awareness campaigns against child abuse.

Child Marriage: The legal minimum age for marriage is 18, but with parental consent it is 12 for girls and 14 for boys. Early marriages were not perceived to be a significant problem.

Sexual Exploitation of Children: The minimum age for consensual sex is 12. When a sexual union takes place with a minor under age 15, violence is presumed and statutory rape laws, which carry a penalty of two to 12 years in prison, can be applied. However, minors between the ages of 12 and 15 can legally agree to consensual sex; if they consent, any presumed violence is waived. Penalties for pimping children range from four to 16 years in prison. Child pornography is illegal, and penalties range from one to six years in prison. Some children were subjected to prostitution. Laws against child pornography were effectively enforced.

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 [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

### **Anti-Semitism**

The Jewish Central Committee estimated the Jewish population at 18,000 to 20,000. There were few reports of anti-Semitic acts. Incidents included the vandalizing of a Jewish memorial site and the writing of anti-Semitic comments on Internet blogs. Jewish leaders reported effective cooperation with police investigating incidents of anti-Semitism and with the Ministry of Social Development in its antidiscrimination training efforts. Ten percent of the participants in the committee's antidiscrimination courses were non-Jews.

### **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, access to health care, or the provision of other state services; however, the government did not monitor compliance and did not effectively enforce these provisions or promote programs to ensure access to buildings, information, and communications. Most public buses did not have provisions for passengers with disabilities, although airports and ports offered accessibility accommodations. Persons with disabilities reported discrimination in employment despite government efforts to assist in individual cases. A recent report indicated that only 14 percent of persons with disabilities in the economically active population were employed. While it did not discriminate against persons with disabilities, the government did not provide sufficient services such as accessible transportation.

Children with disabilities attended school, including higher education. The Uruguayan Institute for Educational Psychology reported that school-age children with disabilities, such as blindness or Down syndrome, received specially adapted laptops under the country's One Laptop per Child program.

The National Disabilities Honorary Commission of the Ministry of Social Development oversees implementation of a law on the rights of persons with disabilities. The law mandating accessibility for persons with disabilities to new buildings or public services was not consistently enforced. The law reserves 4 percent of public-sector jobs for persons with physical and mental disabilities, but the quota went unfilled. The law also provides for tax benefits to private-sector companies and grants priority benefits to small and medium-sized companies owned by persons with disabilities.

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

The country's Afro-Uruguayan minority continued to face societal discrimination. The NGO Mundo Afro claimed that the judiciary normally did not accept cases of alleged racism and discrimination on grounds that the cases lacked importance.

A National Bureau of Statistics census stated that Afro-Uruguayans (8 percent of the population) suffered high unemployment and poverty. The NGO Mundo Afro stated that the percentage of Afro-Uruguayans working as unskilled laborers was much larger than that for members of other groups. Afro-Uruguayans were underrepresented throughout government (one vice minister and one congressman), academia, and in the middle and upper echelons of private-sector firms.

The government continued its outreach to the Afro-Uruguayan community to encourage participation in the Quijano Scholarship Program for postgraduate work. However, Mundo Afro stated that this program had little impact since only 1 percent of Afro-Uruguayans attended college. Mundo Afro requested that the government focus its education efforts on reducing high school dropouts. The National Police Academy, National School for Peacekeeping Operations of Uruguay, and Ministry of Foreign Affairs' School of Diplomacy included discrimination awareness training as part of their curriculum. Mundo Afro's Higher Institute for Afro Training offered courses on sociology, politics, history, anthropology, music, art, and literature related to afro culture.

During the year Mundo Afro's AM radio talk show expanded its outreach to include an "antiracism community communication" campaign through a network of informal AM radio stations; other outreach efforts included regional exhibitions, and seminars.

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

No laws criminalize sexual orientation, and authorities generally protected the rights of the lesbian, gay, bisexual, and transgender (LGBT) community. Five transvestites were killed during the year, and only one of the cases had been resolved by year's end. There were isolated reports of street violence against individuals leaving gay bars; the police did not intervene in these incidents. Colectivo Ovejas Negras (Black Sheep Collective), an LGBT rights NGO, claimed that police occasionally refused to file reports on discrimination and street violence. The NGO also asserted that in the provinces police committed acts of violence and degradation against transgender persons who were legally registered prostitutes. There were occasional reports of nonviolent societal discrimination based on sexual orientation and gender identity.

The Public Health Service Administration in tandem with LGBT NGOs offered workshops and public awareness training for health workers to create health centers free of prejudice and discrimination.

In June a judge found the owner of a bar guilty for "exerting acts of spite and discrimination" against a well-known LGBT activist who was asked to leave the premises for being gay.

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

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

## **Section 7. Worker Rights**

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

The law, including related regulations and statutory instruments, protects the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively. Civil servants, employees of state-run enterprises, private-enterprise workers, and legal foreign workers may join unions. The law regulates collective bargaining and grants the government a large role in adjudicating labor disputes. The law also designates trade unions to negotiate on behalf of workers whose companies are not unionized. The law prohibits antiunion discrimination and requires employers to reinstate workers fired for union activities and pay an

indemnity to such workers. In addition, if an employer contracts employees from a third-party firm, the law holds the employer responsible for possible labor infringements committed by the third-party firm. The law allows unions to conduct their activities without government interference.

Under the Ministry of Labor and Social Security (MTSS), the Collective Bargaining Division investigates antiunion discrimination claims filed by union members. Government remedies and penalties were effective to deter violations. There were generally effective albeit lengthy mechanisms for resolving workers' complaints against employers. The law establishes a conciliatory process before the trial begins, and requires that at that time the employer be informed of the reason for a claim and the alleged amount owed to the worker. A 2011 amendment to the law grants the defense more time to respond to the complaint in court and simplifies appeal procedures, thus shortening somewhat delays in resolving disputes.

Worker organizations operated free of government regulation and independent of the government and political parties. Collective bargaining was freely practiced, and workers exercised the right to strike in practice. There were no reports of antiunion discrimination.

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

The law prohibits all forms of forced or compulsory labor. The MTSS did not report identifying or investigating any cases of forced labor during the year. There were isolated reports of foreign migrant workers vulnerable to forced labor in domestic service.

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 law sets the minimum age for employment at 15, but work permits for minors age 13 to 15 may be issued by INAU only under special circumstances specified by the law. Minors age 15 to 18 require government permission to work, must undergo physical exams prior to beginning work, and must renew these exams yearly to confirm that the activity does not exceed the physical capacity of the incumbent. The government has compiled a list of the most hazardous activities that minors should not perform and does not grant permits for hazardous or

fatiguing work. Children age 15 to 18 may not work more than six hours per day within a 36-hour workweek and may not work between 10 p.m. and 6 a.m.

The MTSS is responsible for overall compliance with labor regulations, but INAU is responsible for enforcing child labor laws. Violations of child labor laws by companies and individuals are punishable by fines of up to 1.2 million pesos (\$60,000) determined by an adjustable government index. Parents of minors may receive a sentence of three months to four years in prison, according to the penal code.

Enforcement was difficult, particularly in the informal economy, due to a lack of dedicated resources and because most child labor occurred in the informal sector.

In 2011, the latest year for which data were available, INAU granted 3,148 work permits. The main labor activities deemed nonhazardous were in the food industry (supermarkets, fast food restaurants, bakeries) and on small farms and poultry farms; typical activities included clerical work, egg sorting, and cleaning. In 2011 INAU worked with the MTSS and the National Insurance Bank to investigate the 11 complaints of child labor received in 2011; it worked with the Ministry of Interior to prosecute cases. INAU had 11 trained child-labor inspectors, who completed approximately 1,570 inspections in 2011. During the year INAU continued its efforts to prevent and regulate child labor and provided training on child labor issues.

In April with the support of the International Labor Organization, the government, along with other governments of the Southern Common Market (MERCOSUR), launched an awareness raising campaign, “MERCOSUR United Against Child Labor.”

Child labor continued to be reported in activities such as street vending, garbage collection and recycling, construction, and in agriculture and forestry—areas generally less strictly regulated and where children worked with their families. The most recent data available from the National Committee for the Eradication of Child Labor indicated approximately 67,000 working children and adolescents, 8 percent of whom performed activities considered hazardous or dangerous. In June 2011 the Ministry of Social Development’s National Census Bureau survey of child labor estimated that 20,000 children were collecting garbage alongside their parents. The same report characterized 75 percent of the work performed by children age five to 17 as dangerous because it involved the use of machinery or

tools and lifting heavy weights. The report stated that 0.2 percent of children age five to 17 begged for a living.

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 monthly minimum wage was 7,200 pesos (approximately \$342). The official poverty income level was approximately 7,750 pesos (\$388) per person per month, according to the National Statistics Institute.

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

The MTSS sets occupational safety and health standards. However, some regulations cover urban industrial workers more adequately than rural and agricultural workers. The law protects foreign workers and does not discriminate against them, but official protection only extends to formal-sector workers.

Workers in all sectors are covered by laws on minimum wage, hours of work, and occupational health and safety standards, including domestic and migrant workers and workers in the agricultural sector, which has a slightly higher minimum wage.

The MTSS is responsible for enforcing the minimum monthly wage for both public and private-sector employees and for enforcing legislation regulating health and safety conditions. The MTSS had 151 general inspectors for labor issues. In practice, penalties imposed by the MTSS were not sufficient to deter violations of labor laws in all cases. The government monitored wages and other benefits, such as social security and health insurance through the Social Security Fund and the Internal Revenue Service. The Ministry of Public Health's Bureau of Environment and Occupational Work is responsible for developing policies to detect, analyze, prevent, and control risk factors that may affect workers' health. In general authorities effectively enforced these standards in the formal sector but less so in the informal sector.

In addition, the MTSS has a special section to monitor domestic work and may obtain judicial authorization to conduct home inspections to investigate potential labor law violations.

Formal-sector companies generally complied with minimum wage regulations, and in practice most workers earned more than the minimum wage. However, many citizens and foreign workers were employed informally and thus did not benefit from certain legal protections. Some workers claimed a loss of other privileges at work based on their refusal to work in unsafe conditions. The Ministry of Agriculture is responsible for carrying out safety and health inspections in the agricultural sector.

There continued to be reports of exploitation of foreign workers in the agricultural sector and in the fishing and wood industries.

Although the government does not collect official statistics on workplace accidents, a report issued by a construction workers' union indicated that 60,000 workers suffered labor accidents in 2011, mainly in the construction sector. Labor accidents resulted in approximately one fatality per week.