

# **BOLIVIA 2012 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Bolivia is a constitutional, multiparty republic with an elected president and a bicameral legislature. In December 2009, in a process deemed free and fair by international observers, citizens reelected Evo Morales Ayma, leader of the Movement toward Socialism (MAS) Party, as president. Security forces reported to civilian authorities.

The most serious human rights problems included arbitrary arrest or detention, denial of a fair and timely public trial, and violence against women.

Additional human rights problems included harsh prison conditions, restrictions on freedom of speech and press, official corruption in the judiciary and elsewhere, lack of government transparency, trafficking in persons, and vigilante justice. Societal discrimination continued against women; members of racial and ethnic minority groups; indigenous persons; individuals with disabilities; lesbian, gay, bisexual, and transgender (LGBT) persons; and those with HIV/AIDS.

The government took steps in some cases to prosecute security service and other government officials who committed abuses; however, inconsistent application of the laws and a dysfunctional judiciary led to impunity.

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

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

Unlike in the previous year, there were no reports that the government or its agents committed arbitrary or unlawful killings.

At year's end the Constitutional Court had made no decision regarding the appeal of the military courts to maintain jurisdiction in the case of sublieutenants Jorge Castro Urena, Rudy Gerardo Flores Herrera, Franz Eduardo Garcia, and Roberto Roy Velasquez, charged with the February 2011 killing of Sublieutenant Grover Poma Guanto.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The constitution and laws prohibit such practices, but there was at least one report that government officials employed them during the year.

During a health-sector strike on May 10, police arrested Leonor Boyan for allegedly throwing a rock at Vice Minister of Government Jorge Perez. Boyan reported that the police officers physically and verbally abused her and that she suffered head trauma as well as other injuries. She was later transported to a hospital, and the charges against her were dropped. Perez stated on May 10 that Boyan's statements were "theater" and claimed that there was no evidence of abuse, but the emergency unit physician Oscar Romero explained that she had received treatment in the intensive care unit. The lower house of the National Assembly called for a hearing on the alleged mistreatment, but at year's end no hearing had been scheduled.

The case of Jose Cantoral and three other Peruvians, arrested in August 2011 on terrorism charges, continued in the investigative phase. Cantoral was held in detention for 22 days without due process or access to a lawyer, during which time the Permanent Assembly of Human Rights and the UN high commissioner for refugees stated that Cantoral was subjected to psychological and physical torture. The government extradited the three other Peruvians to Peru. In December 2011 Cantoral was released on house arrest and maintained his refugee status, preventing his extradition to Peru.

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

Prison conditions were harsh due to the rapid increase in the number of detainees, which led to gross overcrowding. Authorities acknowledged that due to corruption among low-ranking and poorly paid guards, the state was unable to regulate inmates within facilities. A lack of internal control created an unsafe environment, endangering the detainees and the hundreds of children who lived in penitentiary centers. Many prisoners were forced to pay bribes for protection and accommodation.

Physical Conditions: Prisons and detention centers were overcrowded and underfunded. During the year the number of inmates increased by 4,359 to a total of 13,489, held in facilities designed for 5,000. This was in addition to a 22.4

percent increase in 2011. On December 20, the president issued an executive order to allow the national penitentiary system director to release up to 600 inmates convicted of minor crimes and 1,000 persons in preventive detention, but no prisoners had received freedom under the decree by the end of the year. The penitentiary director stated that the system's 2012 operating budget was 17 million bolivianos (\$2.44 million), less than 15 percent of the amount requested by the agency for 2013.

There were separate prisons for women, except for Morros Blancos Prison in Tarija, Montero Prison in Santa Cruz, Riberalta Prison in Beni, and Oruro Prison in Oruro, where men and women shared facilities. Sleeping quarters were segregated, but the population comingled daily. Conditions for female inmates were similar to those for men. Pretrial detainees were held with convicted prisoners.

According to Ministry of Government officials, 1,000 convicted juveniles (ages 16 to 21) were not segregated from adult prisoners in jails. Adult inmates reportedly abused juvenile prisoners. Four convicted female juveniles were serving their sentences in the Center for Women's Therapy Counseling, a women's shelter in La Paz, partially segregated from the abuse victims. Rehabilitation programs for juveniles or other prisoners were scarce.

Although the law permits children up to the age of six to live with an incarcerated parent, children as old as 12 lived with a parent, usually their mothers, in prison. According to the national penitentiary director, approximately 700 children did so, while the human rights ombudsman placed the figure at 1,487.

Due to persistent corruption, a prisoner's wealth often determined cell size, visiting privileges, day-pass eligibility, and place and length of confinement. In San Pedro Prison, the main facility in La Paz, officials demanded bribes of 686 to 6,860 bolivianos (\$100 to \$1,000) from inmates before assigning them to cells, leaving at least 180 inmates to sleep in hallways and open-air spaces. The media reported that in some rural facilities as many as 45 inmates were held in the same cell.

Due to a lack of internal policing, violence and riots among prisoners remained a problem. According to the ombudsman, in some prisons inmates were forced to pay other inmates a "life insurance" fee of 3,500 to 10,500 bolivianos (\$500 to \$1,500) to avoid beatings and torture by other inmates. Protests also resulted in violence. During an April 24 protest at San Pedro Prison, inmates threw wood, bottles, and other objects within the prison and onto the public streets outside.

Services to sustain basic needs were inadequate. Prisoners had access to potable water, but the standard prison diet was insufficient, and prisoners who could afford it supplemented rations by buying food. National Penitentiary Director Ramiro Llanos declared that the state allocated the equivalent of 6.4 bolivianos (\$0.92) for a prisoner's daily diet and 3.2 bolivianos (\$0.46) for the diet of underage children living with their inmate parents. The law provides that prisoners have access to medical care, but care was inadequate, and it was difficult for prisoners to obtain permission for outside medical treatment.

Administration: Recordkeeping on prisoners was adequate and maintained by the penitentiary system's national office. Alternatives to sentencing for nonviolent offenders were not used. Prison detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners to submit complaints periodically to a commission of district judges to investigate; however, due to fear of retaliation by prison authorities, inmates frequently did not submit complaints of abuses.

Monitoring: The government generally permitted prison visits by independent nongovernmental observers such as International Committee of the Red Cross, judges, and media representatives, and such visits took place during the year.

Improvements: In July the government adopted a new regulatory code to standardize practices, such as the list of prohibited items, in the country's penitentiaries. The new code also mandates the creation of penitentiary councils in every facility to monitor conditions and enforce penitentiary policies.

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

The law prohibits arbitrary arrest and detention, but in some cases security forces seized and held individuals under legally questionable circumstances.

In June 2011 foreign citizen Jacob Ostreicher was arrested for suspicion of money laundering and affiliation with a criminal organization. He was placed in preventive detention and held until December 18, 2012. In November and December, authorities arrested more than a dozen government officials on allegations of extortion related to the case. The government alleged that the corrupt officials pressured the judge to reverse his initial decision to grant Ostreicher bail in September 2011 and that officials postponed hearings more than 20 times, severely delaying justice. The government also alleged that during

Ostreicher's imprisonment, the arrested officials illegally sold Ostreicher's business assets and stole the proceeds. Although the government made several arrests, observers believed it was likely that the corrupt officials arbitrarily imprisoned other individuals and that some corrupt officials involved in illegitimate arrests continued to operate with impunity.

On April 10, government agents detained foreign citizen Miriam Unger, the wife of Jacob Ostreicher, for four hours without an arrest warrant after she spoke to the media about her husband's case outside of Palmasola Prison.

On June 11, former commander in chief of the armed forces (2000-02) Alvin Anaya was arrested for illicit enrichment based on his allocation of five million bolivianos (\$718,000) in bonuses to military employees. The practice of allocating reserve funding for employee incentive pay was legal during Anaya's tenure. Military officials criticized the arrest and voiced concern that allowing the government to apply the law retroactively could subject other former officials to similar legal action in the future.

The case involving former Central Bank president (1995-2006) Juan Antonio Morales, arrested in September 2011 for illicit enrichment based on bonuses that he received and provided to bank employees in 1995-97, remained in the investigatory phase. The practice was legal at the time, when bonuses were considered part of employees' salaries. The case was widely criticized as politically motivated. Under house arrest since 2011, Morales continued to have special permission to leave home to teach at a university.

Jorge Melgar Quete, leader of the National Revolutionary Movement party, remained in detention on terrorism and sedition charges awaiting trial after his 2008 arrest for publicly calling for the "liquidation" of President Morales.

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

The national police have primary responsibility for law enforcement and the maintenance of order within the country, but military forces may be called to help in critical situations. The police report to the Ministry of Government, and the military forces report to the Ministry of Defense. As a result of national police strikes on June 21-27, the government agreed to suspend temporarily and revise Disciplinary Code Law 101, the mechanism to investigate and punish internal abuse and corruption. At year's end a new code had not been adopted. Director of Internal Police Investigations Walter Paco reported that the majority of internal

police abuse and corruption case files were destroyed and the unit's computers were damaged during the protests.

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

The law requires that police obtain an arrest warrant from a judge and that the police inform the prosecutor of an arrest within eight hours. The law also mandates that a detainee appear before a judge within 24 hours (except under a declared state of siege, in which a detainee may be held for 48 hours), at which time the judge must determine the appropriateness of continued pretrial detention or release on bail. The judge shall order the detainee's release if the prosecutor fails to show sufficient grounds for arrest. The state allows suspects to select their own lawyers, and the state also provides a lawyer from the Public Defender's Office if the suspect requests one.

Pretrial Detention: The law affords judges the authority to order preventive detention if there is a high probability that a suspect committed a crime, evidence that the accused seeks to obstruct the investigation process, or if a suspect is considered a flight risk. If a suspect is not detained, a judge may order significant restrictions on the suspect's movements. Detainees generally had prompt access to their families and access to lawyers. Approximately 70 percent of detainees could not afford legal counsel, and the public defenders assigned to their cases were overburdened.

Denial of justice due to prolonged preventive detention remained a problem. Although the law establishes that neither the investigatory phase nor the trial phase of a case shall exceed 36 months combined, the Construir Foundation estimated that approximately 75 percent of suspects remained in preventive detention longer than the legal limits. The law states that no one shall be detained for more than 18 months without formal charges. If after 18 months the prosecutor does not present formal charges and conclude the investigatory phase, the detainee may request release by a judge. The judge must order the detainee's release, but the charges against the detainee are not dropped. However, judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures kept many suspects detained for more than 18 months before trial.

The state penitentiary system reported that 84 percent of prisoners were in pretrial detention and that only 16 percent had been sentenced. The Construir Foundation

reported that the rate was higher in some jurisdictions, such as La Paz, where 91 percent of detainees in the city's San Pedro Prison were in pretrial detention.

Judges may face legal prosecution for granting bail to a suspect who violates the release order's conditions or flees. On October 5, Tarija Department Judge Miriam Flores was arrested and incarcerated in Morros Blancos Prison after suspect Pablo Cossio, to whom she granted bail, fled the jurisdiction. Cossio is the brother of suspended Tarija Governor Mario Cossio, who received asylum in Paraguay in January 2011 (see section 2.d.). Cossio remained at large, and Flores continued in prison at year's end. On October 25, the government arrested Santa Cruz Department Judge Iris Justiniano after Department Legislative Assembly member Lucio Vedia, whom Justiniano released on bail, did not appear at a hearing to address charges of driving under the influence and narcotrafficking.

Children from 11 to 16 years of age may be detained indefinitely in children's centers for known or suspected offenses or for their protection on the orders of a social worker. There is no judicial review of such orders.

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

The law provides for an independent judiciary, but the judiciary was widely considered corrupt, overburdened, and weakened by vacancies at its highest levels. A report by the Construir Foundation, the Catholic University in La Paz, and the UN's Office of the High Commission for Human Rights (OHCHR) stated that in urban jurisdictions only 10 new department prosecutors were hired between 2008 and 2012 and that criminal court judges had a backlog of nearly 129,000 cases. Authorities generally respected court orders but sometimes levied charges against judges to pressure them to change their verdicts.

The Institute for the Therapy and Investigation of the Consequences of State Torture and Violence and the Bolivia Society of Forensic Science alleged in April that the Institute of Forensic Investigations was providing incorrect information and analysis to courts. Credible organizations also alleged that some forensic analysts were bribed to misreport information in criminal cases.

#### **Trial Procedures**

The constitution and law provide for the right to be informed of charges promptly and in detail and for a fair trial without undue delay. Defendants enjoy the right to presumption of innocence and trial by jury. They also have the right to consult an

attorney, adequate time and facilities to prepare defense, confront witnesses against them, present witnesses and evidence, access government-held evidence, and file an appeal. Defendants who cannot afford an attorney have the right to a public defender or private attorney at public expense.

Former Pando governor Leopoldo Fernandez of the Democratic and Social Power (PODEMOS) Party, on trial for assault and homicide, remained in detention. In September 2011 his detention period exceeded the three-year limit on detention without a conviction. By law authorities should have released Fernandez, but he was kept in prison on new, separate charges of corruption. Fernandez' lawyers alleged that the government's decision to move the trial to a different jurisdiction from where the supposed crime occurred was also a violation of trial procedures. The trial continued at year's end.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees. However, opposition members alleged that charges against some elected officials were politically motivated. Three opposition members staged an eight-day hunger strike at the OHCHR office in La Paz from June 19 to June 26 to demand an international investigation into what they described as political persecution. By year's end 13 opposition mayors, of whom 11 were replaced by MAS interim mayors, had been removed from their positions. At least six MAS mayors had also been suspended (see sections 2.d. and 3).

### **Civil Judicial Procedures and Remedies**

There is a judiciary process for civil matters, and the law provides for criminal remedies for human rights violations. At the conclusion of a criminal trial, the complainant can initiate a civil trial to seek damages. The ombudsman for human rights can issue administrative resolutions on specific human rights cases, which the government may enforce. Individuals and organizations may also appeal decisions to the Inter-American Commission of Human Rights (IACHR).

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

The law prohibits such actions, and the government generally respected these prohibitions, but there was at least one allegation that the government did not respect the law.

On May 8, Government Minister Carlos Romero released recorded conversations between Fearless Movement (MSM) party leaders and organizers of the ninth indigenous march in defense of the Isiboro-Secure Indigenous Territory and National Park. MSM Congresswoman Marcela Revollo alleged that the government illegally recorded her communications in violation of the constitutional protection to privacy. Vice Minister of Government Jorge Perez justified the government's action under constitutional article 106, which mandates "public access to government information," but there are no laws implementing the constitutional provision. By year's end no further action had been taken on the government's alleged abuse.

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

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

The constitution and law provide for freedom of speech and press. Although the government generally respected these rights, in at least two cases, the government used the antiracism law to restrict both rights. Some senior government officials also verbally harassed members of the press corps.

Freedom of Speech: On July 7, Oruro Mayor Rossio Pimentel filed a lawsuit under the 2010 antiracism law against television presenter Milena Fernandez for discrimination and for spreading and inciting racism. During a July 4 television program, Fernandez described the city of Oruro as "foul smelling." Fernandez publicly apologized for her comments on July 20, but Pimentel affirmed that she would not drop the case. On July 31, due to judicial errors, the case was transferred to a new prosecutor, Cesar Teran. At year's end the case remained in the investigation phase.

Freedom of Press: On August 21, the Presidency Ministry filed a lawsuit against the Fides News Agency and daily newspapers *Pagina Siete* and *El Diario* under the antiracism law for spreading and inciting racism. The media outlets published headlines claiming that President Morales called eastern, lowland individuals lazy. On August 29, the Attorney General's Office opened a case against the outlets; at year's end the case was in the investigation period. The UN special rapporteur on contemporary forms of racism, Mutuma Ruteere, requested that the Constitutional Court consider the constitutionality of the antiracism law, but by year's end the court had not agreed to do so.

The Bolivian Broadcasting Association continued to express concern about the August 2011 telecommunications law that mandates the redistribution of broadcasting licenses and provides the government with a 33 percent share of the licenses. The association asserted that the law would restrict freedom of expression and stated it could lose 400 broadcasters to the government when their licenses expire in 2017.

Violence and Harassment: There were reports of violence and harassment against members of the press corps, including by government officials. The National Observatory for Media Outlets and the Foundation UNIR reported that in the first six months of the year, there were 73 cases of violence or harassment against journalists and media outlets. In 26 cases journalists were physically attacked, and in 33 cases their reporting was forcefully interrupted. The study reported that police officials perpetrated 41 percent of the violence and harassment and that government civil employees and security forces were involved in 8 percent of the cases.

In his September 1 press conference, Santa Cruz mayor Percy Fernandez threatened the journalists and owners of the daily newspaper *El Deber* with violence. The National Press Association reported that in 2011 and 2012, the organization filed three lawsuits against the mayor for threatening media outlets and their employees but that none of the cases had been resolved.

Libel Laws/National Security: On October 23, the Constitutional Court struck down the libel law that allowed for detention of one month to four years for a person found guilty of insulting, defaming, or slandering public officials. The Constitutional Court decision did not automatically resolve all pending libel law cases. Accused parties in all pending cases must formally request that the charge be dismissed.

Nongovernmental Impact: On October 29, five unidentified men set fire to the studio of Popular Radio in Yacuiba, Tarija Department, while broadcaster Fernando Vidal reported on an alleged corruption case involving local customs agents. Vidal and studio technician Karen Arce suffered severe burns. Minister of Communication Amanda Davila denounced the attack, and Government Minister Carlos Romero pledged a rapid and thorough investigation. At year's end the case continued in the investigatory phase, and no suspects had been arrested.

## **Internet Freedom**

There were no government restrictions on access to the Internet, but on October 21, Vice President Garcia Linera stated that the government records the names of people who insult President Morales on social media sites.

A credible private-sector firm reported that 20 percent of citizens had consistent access to Internet services. An August 6 Captura Consulting poll found that 53 percent of citizens occasionally used the Internet but that less than 15 percent used it on a daily basis.

### **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 law provides for freedom of peaceful assembly, and authorities generally respected this right in practice. Although the law requires a permit for most demonstrations, the government rarely enforced the law. Most protesters demonstrated without obtaining permits, frequently blocking major thoroughfares and highways.

While most demonstrations were peaceful, occasionally demonstrators carried weapons, including clubs, machetes, firearms, and dynamite. Security forces (police and on occasion the military) at times dispersed protest groups carrying weapons or threatening government and private facilities.

On February 23, police violently repressed a group of persons with disabilities who were attempting to move their protest to the central government square. Police used tear gas, taser guns, and batons to confront the protesters, and several protesters and police officers were injured. Human Rights Defender Director of Conflict Management Gregorio Lanza called the police action “a display of unnecessary violence, completely unnecessary,” but authorities ordered no action or investigation.

At year’s end authorities continued to investigate the September 2011 case in which police forces in Yucumo, Beni, used tear gas and other methods to disband a peaceful march by indigenous leaders protesting the construction of a highway through their land. On January 4, the prosecutor ruled out the involvement of

President Morales, Vice President Garcia Linera, and former minister Llorenti; former police commander Oscar Munoz, detained in November 2011, remained under house arrest.

### **Freedom of Association**

The constitution 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, but there was at least one instance in which the government did not respect these rights. The law prohibits travel 24 hours before elections and on census days and restricts foreign and domestic travel for up to three months as a penalty for persons who do not vote.

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

Exile: On May 28, National Convergence Party Senator Roger Pinto took refuge in the Brazilian embassy in La Paz. He claimed that the government's 20 criminal charges against him were politically motivated. On June 8, the Brazilian government granted Pinto asylum. The Bolivian government refused to grant Pinto safe passage to Brazil, arguing there was an outstanding warrant for his arrest. Pinto remained in the Brazilian embassy at year's end.

On July 4, suspended Tarija governor Mario Cossio announced from self-imposed exile in Paraguay that he would not formally resign, thereby preventing gubernatorial elections in the department. Cossio was suspended from his position in December 2010 on corruption charges and was granted asylum in Paraguay in January 2011.

## **Protection of Refugees**

The UNHCR reported that there were 716 refugees from more than 20 countries residing in the country. Nearly 40 percent of the refugees were women. The state did not provide temporary protection or resettlement services to these persons.

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 through the National Commission on Refugees. On June 20, the Refugee Protection Law came into force. It creates a National Refugee Council composed of representatives from the Ministries of Government, Justice, and Foreign Affairs to adjudicate asylum applications.

Refoulement: On February 24, the IACHR presented the Pacheco Tineo family's case to the Inter-American Court of Human Rights. The family alleged that in 2001 the government violated their refugee status by forcibly returning them to Peru, where they were imprisoned. They submitted a petition to the IACHR in 2002, and the commission found in 2004 that the government had violated several provisions of the American Convention on Human Rights. The government did not respond to the IACHR assessment, and at year's end the court had not heard the case.

Access to Basic Services: The June 20 Refugee Protection Law prohibits any form of discrimination against refugees, including access to medical care and employment.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. Many citizens of voting age, particularly in rural areas, lacked the identity documents necessary to vote. A broad spectrum of political parties and citizens' groups functioned openly. Elections for national offices and municipal governments are scheduled every five years.

## **Elections and Political Participation**

Recent Elections: Monitoring groups from the Organization of American States (OAS), the EU, and the Carter Center considered the 2009 national presidential and legislative elections peaceful, free, and fair.

The nation's first judicial elections, held in October 2011, were deemed free and fair by observers from the OAS and the Union of South American States. However, electoral laws prohibited media access to the candidates prior to the elections, and opposition leaders claimed the preselection of candidates by congress rendered the vote "legal but not legitimate."

Political Parties: There are no undue restrictions on political parties, but some opposition political leaders alleged that the government's charges against some elected officials were politically motivated. For example, on April 27, Voices Party mayor Jorge Morales of La Guardia in Santa Cruz Department was suspended from office due to corruption charges. On June 7, Delfor Burgos, the former mayor of Bermejo in Tarija Department, was charged with corruption over the purchase of land for sanitary waste. Burgos, an Alternative Regional Movement Party (MAR) member, had been previously suspended from his position in 2010, and he officially resigned in June 2011. On April 19, Beni Governor Ernesto Suarez (PODEMOS Party) officially resigned to allow for a special election on January 20, 2013. In December 2011 Suarez was suspended from office on corruption charges. He remained under investigation at year's end.

Participation of Women and Minorities: The law mandates gender parity in the candidate selection process at all levels of government. The gender parity laws have increased female representation. Women made up 44 percent of the Senate, 23 percent of the lower chamber of congress, 28 percent of department legislative assemblies, and 43 percent of town councils. Women held seven of the 20 cabinet positions. Women also accounted for 33 percent of the Supreme Court, 57 percent of the Constitutional Court, and 43 percent of the National Land and Dispute Court. Women remained significantly underrepresented in municipal executive positions; for example, only 7 percent of mayors were female.

Credible NGOs reported that women participating in politics sometimes faced violence and harassment. In some cases winning female candidates reported that they were threatened with violence to resign so a male alternative candidate could assume the position. The Association of Female Mayors and Alderwomen stated that between 2000 and 2009, its members reported 249 cases of politically motivated harassment and violence.

Women's rights organizations alleged that in at least two cases there was a political motive in the killing of female alderwomen during the year. On March 12, Ancoraimes alderwoman Juana Quispe Apaza was killed near Villa Copacabana in La Paz Department. Quispe had been illegally barred from participating in town council meetings after she brought charges of verbal and physical abuse against the mayor and other council members in 2010. The case remained under investigation. On June 19, two men shot and killed Guayaramerin town council member Daguimar Rivera. Rivera had filed four corruption charges against nine city officials, including the mayor, of the city located in Beni Department. Authorities apprehended a suspect in the case, and the investigation continued at year's end. On May 27, the president signed the Law against Political Harassment and Violence on account of Gender, and on September 15, Mayor Felipa Bilma Tintaya Apaza of Ixiamas in La Paz Department filed the first case for verbal and physical aggression under the new law. From December 20 to 22, Mayor Tintaya was illegally detained without access to food and water, and she filed a second suit against members of the town council under the new law. Both cases were pending at year's end.

Advocacy organizations also reported that LGBT persons faced discrimination when participating in the political process. The only known openly gay elected official, Sucre city council member Ronald Cespedes, filed a discrimination charge against a fellow council member on June 1 for homophobic and transphobic acts. The case was pending at year's end.

The constitution and electoral law set aside seven special indigenous districts to increase indigenous political participation in the lower house of congress. The law also required the preselection of an undefined number of indigenous candidates for the 2011 judicial elections. Indigenous persons held 40 percent of the positions on the four highest courts.

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

The law provides criminal penalties for corruption by officials; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity.

According to the World Bank's 2011 worldwide governance indicators, government corruption and lack of transparency remained serious problems. An August 6 Captura Consulting poll found 28 percent of citizens noted corruption as the country's main problem.

Police corruption remained a significant problem, partially due to low salaries and lack of training, although no reliable statistics existed to quantify its extent.

The Ministry of Anticorruption and Transparency and the Prosecutor's Office are responsible for combating corruption, but most corrupt officials operated with impunity. On August 17, Transparency Minister Nardy Suxo stated that of 8,000 corruption investigations, only 100 persons had been sentenced, which she attributed to poor coordination in the Attorney General's Office. Cases involving allegations of corruption against the president and vice president require congressional approval before prosecutors may initiate legal proceedings.

The law requires public officials to report potential personal and financial conflicts of interest and to declare their income and assets. The law mandates that elected and appointed officials disclose their financial information to the auditor general, but their declarations are not available to the public. According to the law, noncompliance shall result in internal sanctions, including dismissal. If criminal activity is detected, the auditor general must refer the case to the Attorney General's Office.

No laws provide for access to government information.

### **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 generally were cooperative and responsive to their views. However, NGOs and the human rights ombudsman complained that government security forces and ministries occasionally refused to cooperate with their investigations.

Government Human Rights Bodies: The constitution establishes a human rights ombudsman with a six-year term. Confirmation to the position of ombudsman requires a two-thirds majority vote of approval from both houses of the National Assembly. The ombudsman is charged with overseeing the defense and promotion of human rights, specifically defending citizens against government abuses. The constitution also affords the ombudsman the right to propose new legislation and to recommend modifications to existing laws and government policies. There are also ombudsmen to oversee each of the country's nine departments. They report

directly to the national ombudsman. The Ombudsman's Office operated with adequate resources from the government and foreign NGOs, allowing the institution to operate effectively.

The lower house of congress includes a permanent commission on human rights, which proposes laws and policies to promote human rights. Congressional deputies sit on the commission for one-year terms.

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

The constitution prohibits discrimination based on race, gender, disability, language, sexual orientation, gender identity, or social status, but the government did not effectively enforce the law to protect all populations.

### **Women**

Rape and Domestic Violence: Rape and domestic violence remained serious and underreported problems. Rape of an adult is punishable by sentences ranging from four- to 10-years' imprisonment, but conviction rates were low. Spousal rape is not a crime. The law also criminalizes physical and psychological abuse, but penalties are minimal. Unless the case involves a crime subject to the penal code, the law punishes domestic abuse with fines or up to four days in jail. Women's rights groups also reported that authorities enforced the domestic violence law provisions irregularly. The police's Family Protection Brigade is responsible for combating domestic abuse but lacked financial and structural support and personnel to pursue all reported cases.

Sexual violence and rape continued to be serious and widespread problems. A study by the NGO the Women's Coordinator found that of the sexual violence cases reported through the legal system, 58 percent involved the rape of an adult and 10 percent the rape of a minor. The Center for Sexual Education and Research reported that rapists accounted for the second-largest number of 1,700 inmates surveyed, although most rapists were never sentenced. There also were cases of sexual violence that resulted in deaths. The Center for the Information and Development of Women (CIDEM) reported that of the 64 women killed in the first half of the year, 43 deaths were the result of sexual violence. The Manuela Observatory reported that in 2011, 86 women in the city of El Alto were killed as a result of sexual violence.

Domestic violence remained a serious problem. According to CIDEM, 70 percent of women suffered physical, sexual, or psychological abuse during their lifetime. According to a CIDEM and Emancipation Fund study, the number of reported domestic violence cases increased by 37 percent between 2007 and 2011, reaching an annual total of 109,062 in 2011. Rape and domestic violence cases were underreported, due to lack of confidence in authority systems, fear of further violence and retribution, and social stigma. The study also found that only 9 percent of the cases over the five-year period had been legally resolved and less than one-half of 1 percent of the cases resulted in a prison sentence for the accused. The Women's Coordinator study found that 91 percent of domestic violence victims were women and girls.

Sexual Harassment: The law considers sexual harassment a civil offense. There were no reports on the extent of sexual harassment, but it generally was acknowledged to be widespread.

Reproductive Rights: The government recognizes the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs operated freely in disseminating information on family planning under the guidance of the Ministry of Health and Sports. According to the joint World Health Organization, UN, and World Bank's *Trends in Maternal Mortality* study for 1990 to 2010, the maternal mortality rate was estimated to be 190 per 100,000 live births. Major factors influencing the high maternal mortality rate included poor sanitation and lack of access to proper health facilities.

Poverty, discrimination, and lack of access to sexual education led to low rates of contraceptive use. Ramiro Claire, director of the family planning organization, Marie Stopes International Bolivia, reported that 81 percent of women did not use modern forms of birth control, and an Emancipation Fund study found that nearly 40 percent of women did not use any type of birth control method. The Population Reference Bureau reported that 34 percent of married women used modern contraceptive. Access to birth control and education about reproductive rights was more limited in rural areas, where the fertility rate was nearly twice as high as in urban areas.

The 2008 *Demographic and Health Survey* reported that 90 percent of women received prenatal care and 85 percent of mothers and infants received postnatal care, and the Population Reference Bureau reported that 66 percent of births were aided by skilled attendants. The Health Ministry provided conditional cash

transfers to women who registered at a health center and returned for 12 prenatal visits, delivery, and postpartum care. The Maternal and Infant Health Insurance Program provided health services to women of reproductive age and to children under the age of five.

Discrimination: Women are entitled to the same legal rights as men but generally did not enjoy a social status equal to that of men. Traditional prejudices and social conditions remained obstacles to advancement. The minimum-wage law treats men and women equally; however, women generally earned less than men for equal work. The women's rights organization Gregoria Apaza reported that average income for men in the urban labor market was 60 percent higher than for women, and in rural areas it was 33 percent higher. Women sometimes complained that employers were reluctant to hire them due to the additional costs (mainly maternity leave) in a woman's benefits package. The gender gap in hiring appeared widest for positions requiring a higher education. Most women in urban areas worked in the informal economy and the services and trade sectors, including domestic service and microbusiness, whereas in rural areas the majority of economically active women worked in agriculture. Young girls often left school early to work at home or in the informal economy.

The rate of female participation in government was high, but there were reports that female policymakers faced discrimination, violence, and harassment. During the year two female town council members were killed (see section 3).

The Ministry of Justice's Office of Equal Opportunities is responsible for developing and implementing public policies to eliminate discrimination against women.

## **Children**

Birth Registration: Citizenship is derived both through birth within the country's territory (unless on diplomatic status) and from one's Bolivian parent(s). Birth certificates are registered either by a notary's affirmation of the certificate or through testimony of two adults regarding a child's parentage. Registered birth certificates are necessary to obtain national identification cards. The National Electoral Tribunal, which oversees the Civil Registry, reported that 56 percent of Bolivians were registered within one year of their birth and 97 percent by the age of 12. Civil Registry Director Jose Pardo stated that approximately 10 percent, or one million Bolivians, did not have birth certificates.

Child Abuse: Domestic violence against children and school bullying continued at high rates. The human rights ombudsman stated that seven in 10 children suffered physical or psychological mistreatment in their homes, schools, or places of work. Education Minister Roberto Aguilar estimated that 10 percent of children were victims of sexual aggression. A CIDEM study found that in 2011 there were 7,466 reported cases of psychological abuse and 2,733 reported cases of physical abuse against children. Only 684 cases were referred to the legal system, including 373 cases of rape and five killings.

The law criminalizes statutory rape, with prison terms of 15 to 20 years for the rape of a child under the age of 14. In cases involving consensual sex with an adolescent 14 to 18 years old, the penalty is two to six years' imprisonment.

On August 1, the president issued an executive order to eliminate school bullying, and in December 2011 he approved a law declaring 2012 "the year against child and adolescent violence."

Child Marriage: According to the Population Reference Bureau, 26 percent of women ages 20 to 24 were married by age 18. The minimum age for marriage is 14 for girls and 16 for boys. Marriages between adolescents must be approved by the minors' parents or guardians.

Sexual Exploitation of Children: Commercial sexual exploitation of children was a problem, particularly in urban areas. According to the human rights ombudsman, homeless children were the most vulnerable to sexual exploitation.

On July 31, the president signed the Comprehensive Law against Human Trafficking and Smuggling, which sets the penalties for the sexual exploitation of children at 15 to 20 years in prison, an increase of five years. The new law also sets the penalty for the production of child pornography at 13.5 to 20 years in prison.

Displaced Children: According to the human rights ombudsman, 6,000 children lived on the streets of major cities.

Institutionalized Children: Child advocacy organizations reported that many government-run shelters housed both child-abuse victims and juvenile delinquents.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

## **Anti-Semitism**

The Jewish population numbered fewer than 1,000. Jewish community leaders stated that there were no reports of anti-Semitic acts during the year.

## **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 transportation, access to health care, or the provision of other state services. The law requires wheelchair access to all public and private buildings, duty-free import of orthopedic devices, and a 50 percent reduction in public transportation fares for persons with disabilities. The constitution and law also require communication outlets and government agencies to offer services and publications in sign language and Braille. However, the government did not effectively enforce these provisions. In addition, societal discrimination kept many persons with disabilities at home from an early age, limiting their integration into society and restricting their right to participate in civic affairs. Vice Minister of Special and Alternative Education Noel Aguirre reported that only 7,000 children with known disabilities received specialized educational services. There were no reports of patterns of abuse in educational and mental health facilities.

The National Committee for Persons with Disabilities is responsible for protecting the rights of persons with disabilities.

On March 2, the president approved the General Law for Disabled People, which provides for access to government services. The new law also mandates that, beginning in 2013, persons with "serious and very serious" conditions are to receive an annual pension of 1,000 bolivianos (\$144). On July 14, the Ministry of Health launched the National Registry for People with Disabilities. The registry included 40,368 people, of whom 36 percent reported physical disabilities, 30 percent mental disabilities, and 20 percent multiple disabilities.

On February 23, police violently suppressed a protest by persons with disabilities (see section 2.b.).

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

There were some instances of racial discrimination by police. According to the director general of the fight against racism and all forms of discrimination, by the end of May there were 56 registered cases of discrimination, mostly in the provision of health and education services (other government sectors did not report). Of these cases, 11 percent were classified as acts of discrimination based on race or ethnicity.

### **Indigenous People**

In the most recent census (2001), approximately 62 percent of the population over the age of 15 self-identified as indigenous, primarily from the Quechua and Aymara communities. The IACHR reported that 70 percent of indigenous persons lived in poverty or extreme poverty with little access to education or minimal services to support human health, such as clean drinking water and sanitation systems. The government carried out programs to increase access to potable water and sanitation in rural areas where indigenous people predominated. The governmental Indigenous Fund initiated support in 2010 for development projects designed primarily to benefit indigenous communities. For the year the fund had a budget of more than 184 million bolivianos (\$26.4 million) but by June had allotted only approximately 34 percent of its funding.

Indigenous lands were not fully demarcated, and land reform remained a central political issue. Historically, some indigenous persons shared lands collectively under the “ayllu” system, which was not legally recognized during the transition to private property laws. Despite laws mandating reallocation and titling of lands, recognition and demarcation of indigenous lands were not fully accomplished.

The constitution and law state that indigenous peoples have the right to control natural resources in their territories and be consulted about development projects, but indigenous people protested outside exploitation of their resources and complained that authorities did not properly consult them. From April 27 to June 27, indigenous persons marched to La Paz to demonstrate their opposition to the construction of a highway through indigenous lands without prior consultation. On July 29, the government initiated a consultation process with the communities in the Isiboro-Secure Indigenous Territory and National Park. On December 8, the

government announced that a majority of the communities supported the proposed highway construction project, but some indigenous groups alleged the consultation process was neither thorough nor fair.

Authorities continued their investigation into the forceful dispersing by police of a peaceful march in September 2011 by indigenous leaders protesting the construction of a highway through their land. At year's end the government had taken limited investigatory action, and perpetrators operated with impunity (see section 2.b.).

Indigenous communities were well represented in government and politics, but they bore a disproportionate share of poverty and unemployment. Government educational and health services remained unavailable to many indigenous groups living in remote areas. The government continued to try to improve individual and family situations through the delivery of conditional cash transfers and retirement payments to low-income persons and the elderly.

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

The constitution prohibits discrimination based on sexual orientation and gender identity, and citizens are allowed to change their name and gender on their official identity cards.

Societal discrimination against LGBT persons was common. Credible LGBT organizations reported police violence against and unwillingness to aid LGBT persons. An Emancipation Fund study found that 86 percent of LGBT people in its survey reported suffering physical or verbal abuse by police officers. The study also noted that of those surveyed, 85 percent reported discrimination in educational institutions, 78 percent in health facilities, and 65 percent at work; in addition, nearly half reported discrimination by family members. The transgender community remained particularly vulnerable to abuse and violence. Nearly a third of transgender persons surveyed reported that they had suffered physical abuse, and 75 percent reported having been threatened. LGBT organizations alleged that the October 6 killing of Luisa Duran, who self-identified as transgender, was hate motivated.

Advocacy organizations also reported that LGBT persons faced discrimination when participating in the political process (see section 3).

## **Other Societal Violence or Discrimination**

The human rights ombudsman reported that persons with HIV/AIDS faced pervasive discrimination, although such discrimination is illegal. In August the Ministry of Health reported that of the people with HIV/AIDS surveyed, 32 percent had suffered insults or verbal abuse, 20 percent had been threatened, and 22 percent had been victims of violent aggression. The study also noted that 20 percent of those surveyed reported discrimination in government service provision at hospitals and schools and that many persons with HIV/AIDS did not report acts of discrimination out of fear.

Vigilante justice remained a serious problem, especially in rural communities and in El Alto. The media reported that between 2008 and June 2012, 54 persons were killed in acts of mob violence. In many cases the victims were killed for alleged petty crimes. For example, on March 4, Quila Quila community members in Sucre buried two unidentified men alive after they were accused of stealing from a church. On May 25, a neighborhood mob hanged police officer Rolando Guarachi in the Ventilla section of El Alto. The mob mistakenly identified Guarachi as a criminal; four community leaders were arrested for the killing.

On August 14, a mob in San Matias, Santa Cruz, beat and then burned alive Brazilian citizens Rafael Max Diez and Jefferson Castro de Lima for the alleged killing of three Bolivians. The case remained under investigation.

Violence during labor demonstrations continued to be a serious problem. On September 18, during a protest between two mining sector factions in La Paz, Hector Choque bled to death after a stick of dynamite exploded in his vicinity. Four other protesters received serious wounds in the explosion. The president responded by issuing an executive order outlawing the use of dynamite during public protests. Police investigated the incident, but no further information was available at year's end.

## **Section 7. Worker Rights**

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

The law, including related regulations and statutory instruments, protects freedom of association, the right to strike, and the right to organize and bargain collectively, and it prohibits antiunion discrimination. The 2009 constitution allows any working individual to join a union and provides for the right to strike.

Workers may form a union in any private company of 20 or more employees, but the law requires that at least 50 percent of the workforce be in favor. The law requires prior government authorization to establish a union and confirm its elected leadership, permits only one union per enterprise, and allows the government to dissolve unions by administrative fiat. The law also requires that members of union executive boards be Bolivian by birth. The labor code prohibits some public employees from forming unions but permits government employees in the education, health-care, and transportation sectors to organize.

On December 10, the government approved Law 316, which decriminalizes strikes by all sectors. The new law legalizes strikes for all sectors, does not require government approval for strikes, and allows workers to occupy business or government offices as long as they are nonviolent.

The government enforced applicable laws, but it was slow to do so and continued to use an outdated labor code instead of the constitution. The National Labor Court handles complaints of antiunion discrimination, but rulings took a year or more. The court ruled in favor of discharged workers in some cases and required their reinstatement. However, union leaders stated that problems often had been resolved or were no longer relevant by the time the court ruled. Government remedies and penalties were often ineffective for this reason.

Freedom of association was limited by the government and underresourced labor courts. Moreover, the minimum requirement of 20 workers proved an onerous restriction, as an estimated 72 percent of enterprises had fewer than 20 employees. Labor inspectors may attend union meetings and monitor union activities.

Some public-sector workers (including teachers, transportation workers, and health-care workers) were legally unionized and actively participated as members of the Bolivian Workers' Union without penalty. General and solidarity strikes are protected by the constitution. Collective bargaining and voluntary direct negotiations between employers and workers without government participation was limited. Most collective bargaining agreements were restricted to addressing wages.

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

The law prohibits all forms of forced or compulsory labor. On July 31, the president signed the Comprehensive Law against Human Trafficking and

Smuggling. The law increases penalties for labor exploitation, forced labor, and other forms of servitude to 10- to 15-years' imprisonment for exploitation of adults and 15- to 20-years' imprisonment for exploitation of children. By year's end the Ministry of Justice had not yet issued the final required implementing regulation. During the year, however, the Ministry of Labor expanded its labor inspectorate by four to prepare for the law's implementation.

In some cases the government did not effectively enforce the previous law banning forced labor, which was in force throughout the year. Ministry of Labor officials noted that lack of resources prevented more thorough enforcement of the law.

There were reports of forced child labor (see section 7.c.). Members of indigenous communities continued to be vulnerable to forced labor, including in the agriculture sector. For instance, a report released by an NGO in September, based on data from 2010 and 2011, noted that workers in the production of Brazil nuts from the Amazon region may be vulnerable to forced labor, highlighting indicators of forced labor, including induced indebtedness, withholding and nonpayment of wages, and retention of identity documents. In addition, the report noted that workers in the production of cattle, corn, and peanuts from the Chaco region may also be vulnerable to forced labor, highlighting indicators of forced labor, including physical confinement in the work location, induced indebtedness, and withholding and nonpayment of wages. The report stated that its findings were specific to the regions studied and not statistically representative of the country or its Brazil nut, cattle, corn, or peanut sectors as a whole. In addition, while noting indicators of forced labor, the report did not claim to determine the existence or scale of forced labor in the country. The report stressed that the government was active in combating forced labor but had a limited capacity, especially in isolated areas.

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 prohibits all paid work by children under the age of 14 as well as a range of dangerous, immoral, and unhealthy types of work for minors under 18. Labor law permits apprenticeship for 12- to 14-year-old children with various formal but poorly enforced restrictions that the International Labor Organization (ILO) criticized. Children under 14 worked in a variety of industries, including dangerous sectors such as mining and agriculture.

The Ministry of Labor is responsible for enforcing child labor laws, including laws pertaining to the minimum age and maximum hours for child workers, school completion requirements, and health and safety conditions for children in the workplace; however, authorities did not enforce the laws in all cases. During the year the Ministry of Labor conducted approximately 100 investigations into alleged cases of child labor and reportedly rescued more than 100 children from poor labor conditions.

The Bolivian Institute for International Trade, with support from the government, worked with the sugar association to eliminate child labor throughout the sugar production chain. The institute created a triple seal to certify that companies were free of child labor, forced labor, and discrimination. Up to 500 sugar manufacturers continued to participate in the program, but none had received the triple seal by year's end.

Child labor remained a serious problem. According to the ILO, as of 2008 an estimated 849,000 children, approximately 28 percent of children between the ages of five and 17, worked at least one hour a week. Of the working children, 397,000 worked in urban areas and 452,000 in rural communities. Approximately 491,000 of the working children were between the ages of five and 13, of whom 89 percent worked in dangerous sectors or conditions.

Urban children sold goods, shined shoes, and assisted transport operators. Rural children often worked with parents from an early age, generally in agriculture. A report released by an NGO in September, based on data from 2010 and 2011, reported instances of child labor in the production of corn and Brazil nuts. The report noted that Brazil nut harvesting was typically carried out by families and that child labor existed. Researchers also found that some children worked in Brazil nut processing factories, including at night. Children worked as domestic servants and in dangerous occupations, such as mining. There were reports that children were victims of forced labor in mining, agriculture, and as domestic servants.

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**

During the year the government raised the minimum monthly wage by 22.6 percent, to 1,000 bolivianos (\$144) for the public and private sectors. The government's official estimate of the poverty income level in 2012 was 495 bolivianos (\$71) per month. Labor laws establish a maximum workweek of 48 hours and limit the workday to eight hours for men. The laws also set a 40-hour workweek for women, prohibit women from working at night, mandate rest periods, and require premium pay for work above a standard workweek. The law stipulates a minimum of 15 days' annual leave.

The government did not effectively enforce these laws. The Ministry of Labor's Bureau of Occupational Safety has responsibility for the protection of workers' health and safety, but the relevant standards were poorly enforced. During the year the ministry expanded its labor inspectorate by four officials. There were 78 inspectors in the entire country, four of whom were dedicated specifically to child labor. The law provides for penalties for noncompliance, but enforcement was not effective, and the penalties were insufficient to deter violations.

A national tripartite committee of business, labor, and government representatives is responsible for monitoring and improving occupational safety and health standards and enforcement. The Ministry of Labor maintained offices for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions, but it was unclear whether the offices were effective in regulating working conditions. While the government did not keep official statistics, there were reports that workers died due to unsafe conditions, particularly in the mining and construction sectors. There were no significant government efforts to improve conditions in these sectors.

An estimated two-thirds of workers were part of the informal economy. There was no significant government effort to formalize or enforce labor laws in this portion of the economy.

Working conditions in cooperative-operated mines remained poor. Miners were self-employed and worked with no scheduled rest for long periods in dangerous, unhealthy conditions.