

# HONDURAS 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Honduras is a constitutional, multiparty republic. Following November 2009 elections, which international observers generally recognized as free and fair, Porfirio “Pepe” Lobo assumed the presidency in January 2010 and formed a government of national unity including all five registered political parties. Security forces reported to civilian authorities, but there were instances in which elements within the security forces acted independently of civilian control.

Among the most serious human rights problems were unlawful and arbitrary killings by police and others, corruption and institutional weakness of the justice system, and harsh and at times life-threatening prison conditions.

There continued to be reports of killings in the Bajo Aguan region of agricultural workers, bystanders, private security guards, and security forces related to land disputes, organized crime, and other factors. Other human rights problems included violence against detainees; lengthy pretrial detentions and failure to provide due process of law; harassment of journalists; corruption in government; violence against and harassment of women; child prostitution and abuse; trafficking in persons; encroachment on indigenous lands and discrimination against indigenous and Afro-descendent communities; violence against and harassment of LGBT persons; ineffective enforcement of labor laws; and child labor.

The government took steps to prosecute and punish officials who committed abuses. However, corruption and impunity were serious problems that impeded the effectiveness of the National Police.

Organized criminal elements were significant perpetrators of violent crimes in the country and committed acts of murder, extortion, kidnapping, torture, human trafficking, and intimidation of journalists and human rights defenders.

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

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

There were reports that members of the security forces committed arbitrary or unlawful killings. For example, on May 27, 15-year-old Ebed Jassiel Yanes

Caceres was killed at a military checkpoint outside of Tegucigalpa. The special prosecutor for human rights charged Eleazar Abimael Rodriguez of the First Infantry Battalion with murder and Felipe de Jesus Rodriguez of the First Infantry Battalion and Josue Antonio Sierra of the First Special Forces Battalion with obstruction of justice and dereliction of duty. At year's end the three were in detention awaiting trial.

At year's end six police officers charged in the October 2011 killing of university students Carlos David Pineda and Rafael Alejandro Vargas and the ensuing cover-up remained in detention awaiting trial on charges of abuse of authority, aggravated robbery, and murder. Two additional suspects remained at large.

On August 30, the Public Ministry arrested Marvin Noel Andino for the December 2011 killing of anticorruption activist Alfredo Landaverde.

Violence in the Bajo Aguan region of the department of Colon resulted in the deaths of an estimated 40 persons during the year. The conflict involved several distinct yet sometimes overlapping elements. Land rights activists contended that large agribusinesses illegitimately purchased farmland and these activists advocated the reclamation of these lands by both legal and other means. Organized criminal elements used the land conflict as cover to conduct illicit activities, including theft and trafficking of arms and drugs. A lack of transparent investigations into violent crimes in the region led some human rights nongovernmental organizations (NGOs) to claim that the government was uninterested in resolving the underlying problems in the area and that police and military in the region were allied with large landholders against field worker collectives. Other members of civil society contended that police were working with criminals embedded in certain field worker collectives in the region and involved in robberies, kidnappings, and extortion.

To address the conflict and allegations of human rights abuses committed by members of the police and military, the government established a regional office of the special prosecutor for human rights in La Ceiba, Atlantida Department, which was investigating five of seven allegations of human rights abuse in the Aguan region. Human rights organizations in the region stated that victims often did not file complaints of abuse due to fear of repercussions. Investigators pointed to a lack of resources and also obstruction by field workers and some human rights NGOs as causes for the lack of progress in investigations. On February 17, the National Agricultural Institute concluded an agreement brokered with field worker collectives, human rights NGOs, and large landholders that legally transferred

approximately 11,600 acres of land from the largest landholder in the region, Dinant Corporation, to members of the two largest field worker collectives. A combined police and military task force continued operations to restore order by confiscating illegal weapons and drugs and executing legal property eviction orders. The Permanent International Observatory for Human Rights in the Bajo Aguan, a civil society collective, criticized the role of the task force, claiming it protected large agribusiness concerns. Other human rights NGOs and members of field worker collectives requested that the task force pursue more aggressively criminal elements operating in the Aguan region.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

Although the constitution and law prohibit such practices, human rights NGOs reported receiving complaints of police abuse both on the street and in municipal detention centers. The special prosecutor for human rights reported investigating six complaints of torture by members of the National Police. At year's end the investigations continued.

On February 20, a court sentenced police agent Delmy Yamileth Martinez to eight years in prison for the illegal detention and torture of Antonia Coello, who was detained during an anticoup demonstration in 2009.

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

Prison conditions did not meet international standards. Prison conditions were harsh and life threatening, due to overcrowding, insufficient access to food and water, violence, abuses by prison officials, and the influence of organized crime.

Physical Conditions: The country had 24 prisons, 23 of them for men. At the end of September, the total prison population was 12,095 in a system with a designed capacity of 8,412. There were 438 women in prison.

Female prisoners generally were held in a separate facility under conditions similar to those of male prisoners. Children up to the age of three were permitted to stay with their mothers in prison.

There were four juvenile detention centers, which operated under the supervision of the Honduran Institute of the Child and Family for the first half of the year. However, under charges of widespread corruption, authorities disbanded the institute in August and created the National Office for Children to replace it. No financing was provided for the new entity. At year's end the centers held 240 inmates. Judges tended to place minors in the centers due to lack of educational or reform programs. Minors were sometimes held together with adults.

Authorities often held pretrial detainees together with convicted prisoners (see section 1.d.).

During the year approximately 400 inmates reportedly died due to violence. On February 14, 361 prisoners died in a fire in Granja Penal de Comayagua, Comayagua Department. On March 29, 13 prisoners died in a riot at the penitentiary in San Pedro Sula, Cortes Department.

Prisoners suffered from severe overcrowding, malnutrition, and lack of adequate sanitation and medical care. Access to potable water was limited to prisoners who purchased bottled water or had water filters in their cells. Due to overcrowding and lack of adequate training of prison staff, prisoners were subject to various abuses, including rape by other inmates.

The ready access of prisoners to weapons and other contraband, impunity for inmates who attacked other inmates, inmate escapes, and threats by inmates and their associates outside prison against prison officials and their families contributed to an unstable and dangerous penitentiary system environment. Authorities held prisoners from rival gangs in separate facilities or in separate areas of the same prison to reduce intergang violence.

There were credible reports from human rights organizations that prison officials used excessive force against prisoners, including beatings, in addition to isolation and threats.

Persons with mental illnesses, as well as those with tuberculosis and other infectious diseases, were held with the general prison population. Authorities at the Dr. Marco Aurelio Soto National Penitentiary in Tamara reported that their facility was the only prison in the country with an antiretroviral treatment program, but it did not have necessary materials to test for or diagnose HIV/AIDS,

tuberculosis, or diabetes. In addition the surgical unit lacked anesthesia, surgical gloves, and needles.

Administration: According to the National Directorate of Special Preventive Service, the national commissioner on human rights, who performs some of the functions of an ombudsman, did not serve on behalf of prisoners and detainees. Instead, public defenders and judges served this role for such matters as seeking alternatives to incarceration for nonviolent offenders to alleviate overcrowding, addressing the status and circumstances of confinement of juvenile offenders, and improving pretrial detention, bail, and recordkeeping procedures to ensure that prisoners did not serve beyond the maximum sentence for the charged offense. However, recordkeeping procedures were inadequate, resulting in some prisoners serving time in prison longer than their sentence. Ninety-eight percent of funds dedicated to the prisons went towards salaries.

Authorities generally permitted inmates to have reasonable access to visitors and religious services of their choice. They also permitted inmates to submit complaints to judicial authorities without censorship and to request investigation of inhumane conditions. The director of prisons held meetings with human rights organizations. While the government did not monitor prison conditions on a continual basis, the National Preventive Police, National Police, and Secretariat of State of Security investigated credible allegations from prisoners and NGOs regarding inhumane conditions. Investigations results were available to the public.

Monitoring: The government generally permitted prison visits by independent local and international human rights observers, including the International Committee of the Red Cross.

Improvements: The Secretariat of State of Security continued a major prison reform program begun in 2010 involving the construction of new facilities to reduce overcrowding, separate the most dangerous prisoners from nonviolent offenders, and promote rehabilitation. In October 2011 the government opened a new maximum-security prison near Tegucigalpa with a capacity of 220 inmates, and during the year officials began transferring to the facility the prisoners considered most dangerous.

In May the National Congress passed new legislation to reform the prison system. The law calls for the construction of new prisons and the creation of a committee to restructure the penal system. However, by year's end the congress had not appropriated funds for that purpose.

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

The constitution and law prohibit arbitrary arrest and detention, but human rights NGOs reported that authorities at times failed to enforce these prohibitions effectively.

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

The Secretariat of State of Security oversees police operations, including those of the National Police, National Preventive Police, Criminal Investigation Division, Transit Police, Border Police, Tourist Police, and Prison Police. The National Police maintain internal security. The armed forces are responsible for external security but also have some domestic security responsibilities. A December 2011 decree grants the military policing powers for a 90-day period under special circumstances, including at the request of the secretary of state for security. Authorities continued to renew this power at the end of each 90-day period following the enactment of the decree.

Corruption and impunity were serious problems within the security forces. The Directorate General for the Investigation and Evaluation of the Police Career (DIECP) was responsible for police oversight. (The DIECP replaced the Directorate of Internal Affairs of the National Police in November 2011.) By year's end the DIECP had reviewed 525 complaints by citizens against members of the National Police, with charges including violations of human rights, corruption, acting against the public good, and participating in organized crime. At year's end 162 investigations were completed; 60 percent resulted either in formal criminal charges against officers or administrative sanctions.

In January the National Congress established the Public Security Reform Commission. The independent commission is responsible for designing, planning, and certifying the process of comprehensive reform of the criminal justice system.

During the year the National Police Academy provided 784 hours of human rights-related training to members of the National Police at all levels.

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

The law provides that police can arrest a person only with a court order unless the arrest is made during the commission of a crime, there is strong suspicion that a

person has committed a crime and may evade criminal prosecution, a person is caught with evidence related to a crime, or a prosecutor has ordered the arrest. The law requires police to inform a person of the grounds for arrest and bring the detainee before a competent authority within 24 hours. It stipulates that the prosecutor has 24 hours to decide if there is probable cause for indictment. A judge then has 24 hours to decide whether to issue a temporary detention order that may last up to six days, by which time the judge must hold a pretrial hearing to examine probable cause and decide whether pretrial detention should continue. The law provides for bail for persons charged with some felonies and the right of prisoners to have prompt access to family members. The law allows suspected criminals to be released pending formal charges with the provision that the suspect periodically report to authorities. Authorities generally respected these provisions. Although the law also provides prisoners the right of prompt access to a lawyer of their choice, and, if indigent, to state-provided counsel, authorities did not always follow these requirements.

Arbitrary Arrest: The constitution and law prohibit arbitrary arrest and detention, but authorities at times failed to observe these prohibitions.

Pretrial Detention: Judicial inefficiency, corruption, and insufficient resources delayed proceedings in the criminal justice system, and lengthy pretrial detention was a serious problem. As of September only 46 percent of prison inmates had been formally sentenced. The law mandates the release of a detainee whose case has not come to trial and whose time in detention has exceeded the maximum prison sentence for the crime of which he is accused. As a result of trial delays, many pretrial detainees had already served time in prison equivalent to the maximum allowable for their crime. Many prisoners remained in jail after acquittal or completion of their sentences due to the failure of officials to process their releases.

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

Although the constitution and law provide for an independent judiciary, the justice system was poorly funded and staffed, inadequately equipped, often ineffective, and subject to patronage, corruption, and political influence.

Low wages and lack of internal controls rendered judicial officials susceptible to bribery, and powerful special interests exercised influence in the outcomes of court proceedings.

## **Trial Procedures**

The law recognizes that an accused person is presumed innocent. Jury trials are not used, but the accused has the right to receive an initial hearing by a judge, ask for bail, consult with legal counsel in a timely manner, have a lawyer provided by the state if necessary, and request an appeal. The law provides for the right to a fair public trial, permits defendants to confront or question witnesses and present witnesses and evidence on their behalf, and grants defendants access to government evidence relevant to their cases. However, these rights frequently were not respected.

Common challenges to criminal prosecutions included a lack of credible evidence presented by the prosecution, lack of witness protection, widespread public distrust in the legal system, and judicial corruption.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary in civil matters, including access to a court to seek damages for human rights violations. A litigant can bring civil charges when the criminal court determines that damages may be sought. Citizens may file complaints with the Inter-American Commission on Human Rights.

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

Although the constitution and law generally prohibit such actions, a legal exception allows entry into a private residence at any time in an emergency or to prevent the commission of a crime. There were credible complaints that police occasionally failed to obtain the required authorization before entering a private home.

Ethnic minority rights leaders continued to complain that the government failed to redress actions by private and public security forces, which had dislodged farmers and indigenous groups claiming ownership of lands based on land reform laws or ancestral titles to property (see section 6).

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

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

The constitution and laws provide for freedom of speech and press, and the government generally respected these rights in practice. A small number of powerful business magnates with intersecting commercial, political, and family ties owned most of the major news media and substantially influenced the reporting in their outlets.

Violence and Harassment: Killings of journalists continued to decrease, but reports of harassment of journalists and social communicators (persons not employed as journalists, but who serve as bloggers or conduct public outreach for NGOs) continued to rise. Four journalists were killed during the year, compared with five in 2011. There also were multiple reports of intimidation of members of the media and their families. Government officials at all levels denounced violence and threats of violence against members of the media and social communicators.

During the year the efforts of the Special Victims Unit (SVU) created in January 2011 to address violent crimes against vulnerable communities, including journalists, led to seven arrests and one prosecution in cases involving killings of journalists and social communicators.

Nongovernmental Impact: Members of the media and NGOs stated that the press “self-censored” due to fear of reprisal from organized crime.

On May 9, National Radio of Honduras news director Alfredo Villatoro was kidnapped, and on May 15, his body was found dressed in an outdated police uniform. On May 27, authorities arrested three men in connection with Villatoro’s kidnapping and death and charged six others with crimes related to his death. However, by year’s end the suspected intellectual author(s) of the crime had not been indicted or detained, and the investigation continued.

On August 22, Roger Mauricio Garcia Pineda was arrested for the May 2011 killing of Hector Francisco Medina. The victim had been the subject of threats for six months before his death, reportedly related to his investigative reporting on alleged corruption in city government (Morazan, Yoro Department) and regional land disputes.

In September Jonathan Joseph Cockburn was sentenced to 28 years in prison for the 2010 murder of journalist Jorge Alberto Orellana.

### **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. According to estimates compiled by the International Telecommunication Union, approximately 10 percent of households had Internet access, and 16 percent of the population used 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**

### **Freedom of Assembly**

The constitution and law provide for freedom of assembly, and the government generally respected these rights in practice. There were, however, complaints from NGOs that police used excessive force in containing demonstrations that turned violent.

### **Freedom of Association**

The constitution and law provide for freedom of association, and the government generally respected this right in practice. The penal code prohibits illicit association and prescribes prison terms of two to four years and a fine of 30,000 to 60,000 lempiras (\$1,510 to \$3,015) for anyone who convokes or directs an illicit meeting or demonstration, defined as those attended by persons bearing arms, explosive devices, or dangerous objects with the purpose of committing a crime.

Authorities temporarily detained protesters wielding rocks, machetes, and other dangerous materials but did not press charges. For example, on August 22, in Saba Hacia La Ceiba, Colon Department, land rights activists armed with sticks and machetes blocked a road with tires and rocks. Before police dispersed the group, protesters overturned two trucks and attacked passersby with stones. Police detained 18 protesters but released them within 24 hours.

### **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 constitution and law provide 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, returning refugees, asylum seekers, stateless persons, and other persons of concern.

#### **Protection of Refugees**

The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. There were nine applications for refugee status in 2012: four from Colombia, two from Bangladesh, and three from Somalia. Refugee status was granted to one Colombian during the year.

### **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 nearly universal suffrage. The law does not permit active members of the clergy and of the military and civilian security forces to vote.

#### **Elections and Political Participation**

Recent Elections: In January 2010 Porfirio "Pepe" Lobo assumed office for a four-year presidential term following elections in 2009 that international observers considered generally free and fair.

Participation of Women and Minorities: During the year the law was amended to increase from 30 to 40 percent the minimum number of candidates from each party for national election that should be women. Women held 25 of 128 seats in the National Congress, and 30 women were alternate members. Five women sat on the 15-member executive board of congress, and eight presided over congressional committees. The most senior of three presidential designates in the government, with equivalent status to that of a vice president, was a woman. There were four female cabinet members--the secretaries of state for the presidency, justice and human rights, tourism, and social development.

The National Congress had one Mosquito community member and one Afro-Honduran member. Both the cabinet-level minister of the Secretariat of State for Indigenous and Afro-Honduran Affairs and the minister of culture were Afro-Honduran.

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

The law provides criminal penalties for corruption, but authorities did not effectively implement the law. Government institutions were subject to corruption and political influence, and some officials engaged in corrupt practices with impunity.

At year's end Enrique Flores Lanza, former secretary of state for the presidency in the administration of former president Jose Manuel Zelaya, had not been brought to trial. Flores Lanza was charged with fraud, falsification of public documents, abuse of authority, and use of falsified public documents in connection with the disappearance of 27 million lempira (approximately \$1.36 million) from the public treasury. In 2011 the Supreme Court released Flores Lanza from house arrest. In 2012 the corruption cases against Flores were transferred from the Supreme Court to a criminal court. Despite the charges, he was elected treasurer of the Honduran College of Attorneys (equivalent to the bar association) in March 2011 and won the Freedom and Refounding party's nomination to represent the Francisco Morazan Department in the National Congress.

According the World Bank's 2012 Worldwide Governance Indicators, the public perception of corruption in the country improved, and Transparency International also noted some improvement in perceived corruption. Nevertheless, there remained a widespread public perception that the anticorruption institutions did not take sufficient steps to contain corruption and were unwilling or lacked the professional capacity and resources to investigate, arrest, and prosecute those

involved in high-level corruption. The 14 prosecutors in the Public Ministry's Corruption Prosecutor's Office had a 10-year backlog of more than 5,000 cases in which public officials were implicated in acts of corruption and abuse of power. Over the same 10-year period, judges tried and administered sentences in approximately 60 cases. The Public Ministry stated that the low rate of prosecution was related to factors such as a lack of prosecutor and judicial education and professional development, unclear roles and responsibilities of government institutions, an unclear penal code, and lack of resources.

To address corruption and impunity, the government developed and began implementing a four-year anticorruption and transparency plan that follows a similar plan implemented in 2011 on audits conducted by third parties.

Public officials are subject to financial disclosure laws and generally complied with the laws. Disclosure laws pertain only to public officials and do not include the assets and income of spouses or dependent children. The Public Accounting Authority (TSC) is mandated to monitor and verify disclosures. The declarations are made public on the TSC's Web site; however, the TSC's most recent published report was from 2009. The TSC publishes the names of public officials who are noncompliant with disclosure laws.

The Public Ministry, police investigative services, and the Public Accounting Authority are the government agencies responsible for combating corruption. There is an anticorruption working group composed of the Superior Accounting Tribunal, Office of the Solicitor General, Public Ministry, Supreme Court, Institute for Access to Public Information (IAIP), National Commission of Human Rights, and Anticorruption Council.

The law provides for public access to government information for citizens, and the government effectively implemented it. All institutions receiving public funding are required to disclose their expenditures and present an annual report to the National Congress 40 days after the end of the fiscal year for the prior year's activities. The IAIP operated a Web site for citizens to request information from government agencies. The IAIP is responsible for verifying that government institutions comply with government transparency rules and practices for permitting access to public information. If a government agency denies a request for public information, a party can submit a claim to the IAIP, which has the authority to grant a resolution, including sanctioning noncompliance with fines. In the first nine months of the year, the IAIP received more than 2,000 appeals

covering federal and municipal government budgets and public institutions; 121 of the appeals were under investigation.

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

A wide variety of domestic and international human rights groups operated in the country, investigating and publishing their findings on human rights cases. Government officials generally cooperated with domestic and international NGOs and were responsive to their views, although NGOs did not always solicit input from government officials.

UN and Other International Bodies: On August 30, the government requested that the Office of the UN High Commissioner on Human Rights open an office in the country.

Government Human Rights Bodies: By year's end the government had fully implemented 17 of the 84 recommendations issued in July 2011 by the Truth and Reconciliation Commission, and another 26 were in the process of being put in place. The recommendations proposed measures to amend the constitution, increase respect for human rights, and advance measures against corruption.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, but it was not effectively enforced. Political, military, and social elites generally enjoyed impunity under the legal system. Women and other vulnerable groups continued to suffer social and economic discrimination.

#### **Women**

Rape and Domestic Violence: The law criminalizes all forms of rape, including spousal rape. With the exception of spousal rape, which is evaluated on a case-by-case basis, rape is considered a public crime, and thus a rapist can be prosecuted even if the victim does not press charges. The penalties for rape range from three to nine years' imprisonment, and the courts enforced these penalties in practice. However, rape continued to be underreported due to fear of stigma, retribution, and further violence. As of September the special prosecutor for women reported receiving 32 reports of rape and other sexual crimes against women.

Rape was a serious and pervasive societal problem that permeated all facets of society. For example, on February 28, Rudy Hernandez was charged with the rape of a minor based on testimony from the victim and forensic tests. Hernandez was a leader of the Permanent Observatory for Human Rights of the Aguan and testified on the conflict in the Aguan region before the Inter-American Commission on Human Rights in October 2011. Local and international human rights NGOs spoke out against his detention, claiming it was an example of government harassment against leaders of the land rights movement. In early March Hernandez was released from the police station in Tocoa, Colon Department, and placed under house arrest. Hernandez subsequently fled the country, and authorities issued a warrant for his capture. At year's end his whereabouts were unknown.

The law criminalizes domestic violence with between two and four years' imprisonment. The only legal sanctions for the first offense of domestic abuse are community service and 24-hour preventive detention if the violator is caught in the act. The law provides a maximum sentence of three years' imprisonment for disobeying a restraining order connected with the crime of intrafamilial violence. In many cases victims were reluctant to press charges against abusers.

Violence against women and impunity for perpetrators continued to be a serious problem. At year's end the Office of the Special Prosecutor for Women reported it was investigating 1,777 complaints of domestic abuse (down from 3,148 in 2011), and the National Observatory of Violence reported 606 femicides for the year (up from 512 in 2011). There were three government-operated domestic violence shelters--in Choluteca, La Ceiba, and Copan. NGOs operated shelters in Santa Rosa de Copan, Juticalpa, and Tegucigalpa. The government provided insufficient financial and other resources to enable these facilities to operate effectively. However, in cooperation with the UN Development Program, the government opened two consolidated reporting centers in Tegucigalpa and San Pedro Sula, where women could report a crime, seek medical and psychological attention, and receive other services. These reporting centers were in addition to the 298 government-operated women's offices completed in late 2011 that provided a wide array of services to women focusing on education, personal finances, health, social and political participation, environmental stewardship, and prevention of gender-based violence.

Sexual Harassment: The law criminalizes various forms of sexual harassment under both the criminal and labor codes. Violators face penalties of one to three years in prison and possible suspension of their professional licenses, but the

government did not effectively enforce the law. Sexual harassment was a serious societal problem but was underreported due to fear of stigma and reprisal.

Reproductive Rights: Couples and individuals have the right to decide freely the number, spacing, and timing of children and to have the information and means to do so free from discrimination, violence, or coercion. According to the Population Reference Bureau, the maternal mortality rate was 110 deaths per 100,000 live births, and 56 percent of married women used modern methods of contraception. Prenatal care, skilled attendance during childbirth, essential obstetric and postpartum care, and access to other maternal health services were available only to those who could afford it; 67 percent of births were attended by skilled personnel.

Discrimination: Although the law accords women and men equal rights, including property rights in divorce cases, in practice women did not enjoy such rights. Most employed women worked in lower-status and lower-paid informal occupations, such as domestic service, without legal protections or regulations. Women were present in small numbers in most professions, but cultural attitudes limited their career opportunities; women participated in the labor force at about half the ratio of men. By law women have equal access to educational opportunities. The law requires employers to pay women equal wages for equivalent work, but employers often classified women's jobs as less demanding than those of men to justify women's lower salaries. Women were paid on average 61 percent of men's salaries for comparable work. Female workers in the textile export industries continued to report that they were required to take pregnancy tests as a condition for employment. Job seekers older than 30, particularly women, faced discrimination based on their age when applying for jobs.

The National Institute for Women develops government policy on women and gender. In addition the federally sponsored National Plan on Equality and Gender Equity continued its efforts to achieve gender equity.

## **Children**

Birth Registration: Birth registration was widely available. Citizenship is derived by birth within the territory, from one's parents, or by naturalization.

Child Abuse: Child abuse remained a serious problem. The law establishes prison sentences of up to three years for persons convicted of child abuse. The Permanent Commission on Protection for the Physical and Moral Well-Being of Children,

coordinated by the Secretariat of State of Interior and Population, coordinates public and private entity efforts to combat child abuse. The government provided a hotline where reports of suspected crimes against children could be conveyed directly to investigative authorities.

Police, gangs, and members of the general public engaged in violence against poor youths. Human rights groups continued to allege that individual members of the security forces and civilians used unwarranted lethal force against supposed habitual criminals, suspected gang members, and other youths not known to be involved in criminal activity.

Child Marriage: The minimum legal age for marriage for male and female citizens is 21, although with parental consent males may marry as young as 18 and females as young as 16. According to a 2011 UNICEF report, 36 percent of women 20 to 24 years old were married or in union before they were 18.

Sexual Exploitation of Children: The commercial sexual exploitation of children, especially in prostitution, continued to be a problem. The legal age of consent is 18. There is no statutory rape law, but the penalty for rape of a minor under the age of 12 is 15 to 20 years' imprisonment; it is nine to 13 years' imprisonment if the victim is 13 or older. Penalties for facilitating child prostitution are 10 to 15 years in prison and fines ranging from approximately 1 million to 2.5 million lempiras (\$51,230 to \$125,600). The law prohibits the use of children under 18 for exhibitions or performances of a sexual nature and in the production of pornography.

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

### **Anti-Semitism**

The Jewish community, located primarily in San Pedro Sula, numbered approximately 1,000. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

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

## **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state services. Enforcement in employment is the responsibility of the Secretariat of State of Labor and Social Security (STSS); however, enforcement was not effective due to the secretariat's focus on workplace safety and pay issues. Enforcement of the laws in other areas is the responsibility of the Public Ministry. The law requires access to buildings for persons with disabilities, but few buildings were accessible, and the federal government did not effectively implement laws or programs to provide access.

Children with disabilities attended school (primary, secondary, and higher education). During the year the government trained 50 teachers in special education for students with disabilities. There were patterns of abuse reported in mental health facilities, including degrading treatment, arbitrary commitment, abuse of physical restraints, unhygienic conditions, inadequate or dangerous medical care, and sexual or other violence.

The right of persons with disabilities to vote and participate in civic affairs was restricted by a lack of accessibility to polling stations and many government buildings.

Prisoners with mental illnesses were held with the general prison population.

The government has a disabilities unit in the Secretariat of State of Social Development and a special commissioner for disabilities in the Secretariat of State of the Presidency.

## **Indigenous People**

Approximately 621,000 persons, constituting 8 percent of the general population, were members of indigenous and other ethnic minority groups. These groups, including the Mosquitoes, Tawahkas, Pech, Tolupans, Lencas, Maya-Chortis, Nahual, Bay Islanders, and Garifunas, lived in 362 communities and generally had little political power to make decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Most indigenous lands were owned communally, providing land-use rights to individual members of the ethnic community. Indigenous land titles often were poorly defined in documents dating back to the mid-19th century. Lack of a clear title allowed encroachment by, and expropriation conflicts with, landless nonindigenous field workers, businesses, and government entities interested in exploiting coastlines, forests, and other lands traditionally occupied or utilized by indigenous and other ethnic minority communities. Indigenous communities criticized the government's alleged complicity in the exploitation of timber and other natural resources on these lands. Indigenous leaders continued to allege that indigenous and nonindigenous groups engaged in drug smuggling and other contraband trafficking and had illegally appropriated vast areas of their communal lands.

Persons from indigenous and Afro-descendant communities continued to experience discrimination with respect to employment and occupation, education, housing, and health services.

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

There are no laws prohibiting discrimination based on sexual orientation. Social discrimination against persons from sexual minority communities was widespread. Representatives of NGOs focusing on sexual diversity rights asserted that police and others harassed and abused their members.

Sexual-minority rights groups asserted that government agencies and private employers engaged in antigay hiring practices. Although these groups reported intimidation, fear of reprisal, and police corruption, leaders in the lesbian, gay, bisexual, and transgender (LGBT) community began working with the SVU and the Secretariat of State of Security to address their community's concerns.

The Public Ministry reported 41 violent deaths of LGBT individuals during the year. For example, after LGBT activist Erick Martinez was reported missing for several days, colleagues identified his remains at a morgue in Tegucigalpa on May 7. The autopsy report confirmed that Martinez was strangled. The Special Victims Task Force charged one adult and two minors with his murder but had not established the motive for his death.

There were no developments reported in the investigation of the 2009 fatal shooting of LGBT activist Walter Orlando Trochez in Tegucigalpa.

## **Other Societal Violence or Discrimination**

There were no reports of widespread societal violence or discrimination against persons with HIV/AIDS.

## **Section 7. Worker Rights**

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

Although the law, including related regulations and statutory instruments, protects the right of workers to form and join unions of their choice, provides for the right to bargain collectively and to strike, and prohibits employer retribution for engaging in trade union activity, it places a number of restrictions on these rights. For instance, the law requires 30 or more workers to constitute a trade union, prohibits foreign nationals from holding union offices, and requires that union officials be employed in the economic activity of the business the union represents.

The law requires that an employer begin collective bargaining once workers establish a union but specifies that if more than one union exists, the employer must negotiate with the largest union at a company. The law prohibits members of the armed forces and police, as well as certain other public service employees, from forming labor unions.

The law prohibits labor federations and confederations from calling strikes and requires that a two-thirds majority of the total workforce is required to approve a strike. The law prohibits workers from legally striking before they attempt and fail to come to an agreement with their employer and also undergo a mediation and conciliation process. In addition it prohibits strikes in a wide range of economic activities that the government deems essential services and any others that, in the government's opinion, affect individuals' rights to security, health, education, and economic or social life. The law prohibits certain public-service employees from striking.

The law permits workers in public health care, social security, staple food production, and public utilities (municipal sanitation, water, electricity, and telecommunications) to strike, but they must continue to provide basic services. The law also requires that public-sector workers involved in the refining, transportation, and distribution of petroleum products must submit their grievances to the STSS prior to striking. Restrictions on strikes in such a broad range of

sectors was considered excessive by international standards. The law permits striking by workers in export processing zones and separate free zones for companies that provide services for industrial parks. However, the law requires that strikes not impede the operations of other factories in the industrial parks.

The STSS has the power to declare work stoppages illegal and dismiss protesting workers. The International Labor Organization continued to express concerns about the government's authority to end disputes in several sectors, including oil production and transport, because such provisions are vulnerable to abuse.

The STSS can reach administrative decisions and fine companies for unfair dismissal; the law permits fines of up to 5,000 lempiras (\$250) for a violation. Civil society, international organizations, and the STSS noted that these fines lacked credibility in the eyes of companies and municipalities due to the small amount of the fine. Inspectors must clear their fines through the Central Office of the Inspector General, which can add months to the period between an inspection and the issuance of a fine. Moreover, only a court can order reinstatement of workers, and the reinstatement process was unduly long.

Workers exercised with difficulty the rights to form and join unions and to engage in collective bargaining, and the government failed to enforce applicable laws effectively. Unions noted that the length of time the STSS took to register unions impeded their ability to unionize. Some unions also alleged that the registry office often informed companies which workers were attempting to unionize, making it easier for companies to dismiss these workers before they were granted legal protection from firing. Unions are independent of the government but closely aligned with political parties.

Civil servants frequently engaged in illegal work stoppages without experiencing reprisals. Public-sector workers held strikes without interference by authorities. Teachers, juvenile detention center employees, and medical professionals and others continued to hold strikes throughout the year to protest nonreceipt of back pay.

Some employers either refused to engage in collective bargaining with unions with impunity or made it very difficult to engage in bargaining. Some companies also delayed or failed to appoint representatives for required STSS-led mediation, a practice that lengthened and impeded the mediation process and right to strike.

Antiunion discrimination continued to be a serious problem. The three major union federations and several civil society groups noted that in cases where fines for violations were imposed, many companies paid the fine and continued to violate the law. Employers commonly threatened to close unionized factories and harassed or dismissed workers seeking to unionize; they also fired leaders with impunity soon after unions were formed to prevent the union from functioning. This was further complicated by employers often barring STSS inspectors from entering to serve union protection documents; STSS inspectors rarely called on the police to gain entry into a factory to serve union protection documents. Employers often failed, with impunity, to comply with court orders requiring them to reinstate workers fired for engaging in union activity.

There was credible evidence that apparel assembly factory employers continued with impunity to blacklist employees seeking to form unions. Some companies also established employer-controlled unions, thereby preventing the formation of independent unions because of the restrictions on the number of unions per company.

There were allegations that companies used collective pacts, which allow collective contracts without the presence of a union, to avoid union formation. Unions also raised concerns about the increased use of temporary contracts as well as part-time employment, suggesting that employers used these mechanisms to attempt to avoid union formation or having to provide full benefits.

Several companies in the country's export processing zones instituted solidarity associations that, to some extent, functioned as company unions for the purposes of setting wages and negotiating working conditions.

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

In July the National Congress enacted a new comprehensive antitrafficking law that prohibits all forms of forced labor; however, the government did not effectively enforce the law.

Forced labor occurred in agriculture, commercial fishing, domestic services, and the transit of drugs and other illicit items. Victims were primarily impoverished men, women, and children in both rural and urban 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 regulates child labor, sets the minimum age for employment at 14, and regulates the hours and types of work that can be performed by minors up to age 18. By law all minors between the ages of 14 and 18 must receive special permission from the STSS to work, and the STSS must perform a home study to verify that there is an economic necessity for the child to work and that the child will not work outside the country or in hazardous conditions, including in offshore fishing. If the STSS grants permission, children between the ages of 14 and 16 may not work more than four hours per day. Children between the ages of 16 and 18 may not work more than six hours per day. The law prohibits night work and overtime for minors under the age of 18. However, the STSS can grant special permission for minors between the ages of 16 and 18 to work in the evening if it does not affect their schooling.

The law requires that employers with more than 20 school-age children working at their business facility provide a location for a school. The law provides for three to five years in prison for persons violating child labor laws.

Between 2011 and year's end, the STSS trained all labor inspectors in the identification and reporting of child labor infractions, but the government did not devote adequate resources or inspectors to monitor compliance with child labor laws or to prevent or pursue violations. The STSS did not effectively enforce child labor laws outside the apparel assembly sector, and there were frequent violations.

The vast majority of children who worked did so without STSS permits. Children often harvested melons, coffee, okra, and sugarcane; rummaged at garbage dumps; and worked in the forestry, hunting, and fishing sectors. Children also worked as domestic servants, peddled goods such as fruit, begged, washed cars, hauled loads, and labored in limestone and lime production. Most child labor occurred in rural areas. Children often worked alongside family members in agriculture and other sectors, such as fishing, construction, transportation, and small businesses.

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**

In January the government enacted an agreement setting the minimum wage for three years. Monthly wages were set based on industry and number of employees and ranged from 4,612 lempiras (\$232) to 7,133 lempiras (\$358).

The law applies equally to national and foreign workers, regardless of gender, and prescribes a maximum eight-hour shift per day, a 44-hour workweek, and at least one 24-hour rest period for every six days of work. It also provides for paid national holidays and annual leave. The law requires overtime pay, bans excessive compulsory overtime, and prohibits the practice of requiring workers to complete quotas before leaving. The law does not protect domestic workers effectively.

The STSS is responsible for enforcing national occupational health and safety laws, but it did not do so consistently or effectively. The government did not allocate adequate resources for labor inspectors to perform their duties. The secretariat had 121 inspectors, who conducted 5,226 inspections during the year.

Because labor inspectors continued to be concentrated in Tegucigalpa and San Pedro Sula, complete labor inspections as well as follow-up visits to confirm compliance with findings were far less frequent in other parts of the country. Many inspectors asked workers to provide transportation to conduct an inspection, as the STSS did not have sufficient resources to pay for travel to worksites, further impeding their ability to enforce labor laws effectively. There continued to be credible allegations of corruption among labor inspectors, particularly in the northern part of the country.

Authorities did not effectively enforce worker safety standards, particularly in the construction, garment assembly, and agriculture sectors. The minimum wage was rarely paid in the agricultural sector and was not paid consistently in other sectors. Agricultural workers frequently reported being penalized for taking legally established days of rest and holidays.

There were reports of violations of the limits on overtime, with agricultural workers working seven days a week for many months and reports of port workers working up to 30 consecutive hours. There were credible allegations of compulsory overtime at apparel assembly factories (particularly for women, who made up approximately 65 percent of that sector's workforce), in the private security sector, and among household workers. Employers frequently denied workers mandatory benefits, including vacation pay and 13th- and 14th-month bonuses, and there were reports that both public- and private-sector employers failed to pay into the social security institute funds.

Human rights organizations continued to report that in the private security and household sectors, workers were typically obliged to work more than 60 hours a week but paid for only 44 hours. Household workers often lacked contracts and received salaries below the minimum wage. Since many lived in on-site housing, their work hours often varied widely based on the will of individual employers. Private security guards also often worked for salaries below the minimum wage. Many guards worked every other day on 24-hour shifts, which violated the law. Civil society organizations also reported that workers in cleaning services and the fast food industry were often obliged to work shifts of 12 or more hours. A 2009 report from the International Labor Organization, the most recent data available, estimated that 58 percent of workers were in the informal economy.

There continued to be reports of violations of occupational health and safety laws, including lack of access to appropriate safety equipment, and other labor rights violations relating to the approximately 3,500 lobster divers, most from the Mosquito indigenous and other ethnic minority groups in Gracias a Dios Department. Civil society groups reported that most dive boats held more than twice the boat's capacity for divers and that many boat captains sold marijuana and crack cocaine to divers on their ship to help the divers complete an average of 12 dives per day at depths of more than 100 feet. Because of these practices, approximately 40 percent of divers reported sustaining job-related injuries.