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2009 Human Rights Report: Panama

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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Panama is a multiparty constitutional democracy with a population of approximately 3.45 million. On May 3, voters chose Ricardo A. Martinelli Berrocal as president in national elections considered generally free and fair by international and domestic observers. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, although problems persisted, including harsh prison conditions and abuse by prison guards; prolonged pretrial detention; corruption, ineffectiveness, and political manipulation of the judicial system; political pressure on the media; discrimination and violence against women; trafficking in persons; discrimination against indigenous communities; and child labor.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

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

In the ongoing investigation of 47 cases of murder or disappearance during the 1968-89 military regime, 19 cases were tentatively dismissed, one was declined for trial, another was permanently dismissed, and seven cases were closed due to prescription; 19 cases were at various stages of the trial process, including four cases currently being tried.

There were no known developments in investigations the attorney general opened in 2008 regarding the alleged killings in 1982-83 of more than 20 persons reportedly thrown from helicopters.

In November the Attorney General's Office requested that a superior court call former minister of government and justice Daniel Delgado to trial for a killing in 1971. Delgado was instructed not to leave the country and must appear before the Prosecutor's Office once a month until the court reaches a decision on calling a trial.

b. Disappearance

There were no reports of politically motivated disappearances.

In December the Public Ministry requested permission from family members to conduct DNA tests in Panama on the remains of four persons, including disappeared priest Hector Gallego. The remains had been sent abroad in 2008 for DNA testing but contractual and procedural issues have delayed this process.

In 2008 the Inter-American Commission on Human Rights (IACHR) ordered the government to pay restitution to the family of Heliodoro Portugal, who disappeared in 1970 during the military dictatorship. In February, during a public event to honor those who disappeared during the military regime, the government undertook to comply with the IACHR ruling; however, at year's end no payment had been made.

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

The constitution prohibits treatment or punishment that harms the physical, mental, or moral integrity of persons.

Prison guards sometimes physically abused inmates. Through August the Panamanian National Police (PNP) Directorate of Professional Responsibility (DRP) opened two investigations into cases of prison guard abuse against inmates, compared with 35 such investigations in all of 2008. During the year the ombudsman intervened in 153 cases in the prison system, negotiating and petitioning on behalf of prisoners and receiving complaints about prison conditions.

Prison and Detention Center Conditions

Prison conditions remained harsh and, in some cases, life threatening. Problems included overcrowding, use of police stations as detention facilities, and failure to separate inmates according to the type or severity of their alleged crimes. As of September the prison system, which had an official capacity of 7,145 persons, held 10,676 prisoners. In October the government released 803 inmates who had served two-thirds of their sentences.

Abuse by prison guards and custodians remained a problem. Prison authorities generally arranged for prosecution of criminal offenses by officials.

Prison medical care was inadequate. HIV/AIDS, tuberculosis, hepatitis B, and other communicable diseases were common among the prison population. Only 14 physicians served the entire prison system, and they worked limited morning hours. A 60-bed clinic opened at La Joyita prison in 2008 remained unused due to lack of custodians to watch ill detainees; authorities transferred patients to public clinics instead.

There were no known developments in the case of two persons charged with the 2007 killing of an inmate in the Basilio Lakas detention facility.

PNP officers provided both internal and perimeter security at all prisons but often lacked training for prison duty. In PNP-run prisons, inmates complained of limited time outside of cells and limited access to family visits. Civilian custodians joined the PNP in overseeing inmates within Nueva Esperanza, Tinajitas, El Renacer, and the central women's prisons in Panama and Chiriqui provinces.

Small jails attached to local police stations sometimes held prisoners for the entire length of their sentences, but police officers who guarded them lacked the necessary custodial training to prevent abuses, and typically the detention facilities were not suitable for long-term detention.

Female and male prisoners were held separately. Although prison conditions for women and juveniles were generally better than those for men, they remained characterized by overcrowding, poor medical care, and lack of basic supplies for personal hygiene. There were no reports of sexual or other violence in women's prisons. Unlike in prisons for men, there

were no conjugal visit programs in prisons for women, which were administered mainly by female directors and custodians.

With the exception of one modern facility near Panama City, juvenile pretrial and custodial detention centers throughout the country did not have resources to provide education or adequate supervision.

Pretrial detainees often shared cells with convicted prisoners, and first offenders were held with recidivists due to space constraints.

The Office of the Ombudsman conducted weekly prison visits, and the government generally did not monitor ombudsman meetings with prisoners. The office accepted complaints from prisoners or their families and in July issued a comprehensive report on the status of prisons. Also in July the government approved an additional \$5.5 million to improve prison conditions (the U.S. dollar is the official paper currency but is officially referred to as the Balboa).

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The law permits exceptions when an officer apprehends a person during the commission of a crime or when an individual interferes with an officer's actions.

Role of the Police and Security Apparatus

The country has no regular military forces. The Ministry of Government and Justice oversees all police, investigative, border, and maritime forces in the country. The PNP is responsible by law for internal law enforcement and public order. The National Frontier Service and the National Aero-Naval Service were created in 2008 to provide border and maritime security. The Directorate of Judicial Investigation (DIJ) provides investigative services to the judicial system.

In August the National Assembly abolished the year-old National Intelligence and Security Service.

Although its primary mission is law enforcement, the PNP also is responsible for prison security. There were approximately 17,000 law enforcement officers. The law includes specific guidelines for the use of force, including deadly force; requires that police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior.

Corruption among police officers remained a problem, and cases against higher level officials generally were not pursued as vigorously as those against lower-level officers. The Public Ministry opened three cases against PNP officers for embezzlement and one for corruption.

Police officers frequently were involved in cases of narcotics smuggling and other crimes. The government regularly investigated and prosecuted officials involved in criminal activity. In July the new administration approved salary increases for PNP (but not DIJ) agents. The government fired 25 DIJ agents for subsequently protesting, declaring that the protests constituted disrespect for the constitution.

The PNP's independent Office of Professional Responsibility has administrative authority to open internal investigations and a defined legal process. The staff received training in polygraph usage and conducting internal investigations.

The PNP's deputy director and secretary general addressed human rights problems that arose in the police force. A Directorate of Human Rights created in 2008 is responsible for sanctioning officers for human rights violations. Through May the human rights ombudsman received two complaints against police officials for abuse of authority. PNP officers regularly underwent human rights training.

As of September the DRP had opened 335 disciplinary proceedings against police, including 125 for inappropriate conduct, 111 for physical aggression, and 97 for abuse of authority. For the entire year, 133 incidents of domestic violence by police officers were reported. Through September no PNP officers had been dismissed.

Arrest Procedures and Treatment While in Detention

Police generally apprehended persons openly and did not practice arbitrary or secret arrest and detention. The law provides that suspects be brought promptly before a judge; however, lack of prompt arraignment continued to be a problem. The law requires arresting officers to inform detainees immediately of the reasons for arrest or detention and of the right to immediate legal counsel. The law provides for bail, and a functioning bail system exists. Detainees were allowed prompt access to legal counsel and family members, and the government provided indigent defendants with a lawyer. The law prohibits police from detaining suspects for more than 48 hours without judicial authorization but permits detention of minors for 72 hours. The preliminary investigation phase of detention may last from eight days to two months and the follow-up investigation phase another two to four months, depending on the number of suspects.

In practice extended pretrial detention continued to be a serious problem because of the laws, judicial inefficiency, and the use of a written inquisitorial system. According to government statistics, as of July 58 percent of prisoners were pretrial detainees. Pretrial detention at times exceeded the maximum sentence for the alleged crime.

e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the judicial system was susceptible to corruption and outside influence, including manipulation by other branches of government. The president appoints nine Supreme Court of Justice magistrates to staggered 10-year terms subject to National Assembly ratification. The Supreme Court of Justice magistrates, in turn, appoint appellate Superior Tribunal judges, who appoint circuit and municipal court judges in their respective jurisdictions. Although the law provides for these judicial appointments to be made under a merit-based system, civil society groups maintained that political influence and undue interference by higher-level judges undermined the system.

At the local level, mayors appoint "corregidores" (administrative judges), who exercise jurisdiction over minor civil cases and over the arrest and imposition of fines or jail sentences of up to one year. Outside of Panama City, this system had serious shortcomings. Defendants lacked adequate procedural safeguards. Corregidores usually had no legal training or other pertinent expertise. In practice appeal procedures were generally nonexistent. Affluent defendants often paid fines while poorer defendants went to jail.

Trial Procedures

The law provides that all citizens charged with crimes enjoy a presumption of innocence and have the right to counsel, to refrain from incriminating themselves or close relatives, and to be tried only once for a given offense. If not under pretrial detention, the accused may be present with counsel during the proceeding's investigative phase.

In 2008 the National Assembly approved a new Code of Criminal Procedures (new code), through which the country will transition from an inquisitorial to an accusatory system of justice. The new code incorporates anticorruption elements, such as regulations to penalize conflicts of interest, protect witnesses and whistleblowers, and allow the use of plea bargaining. In August, a month before the new code was to have entered into force, the government postponed its implementation for two years.

Trials are open to the public. The law provides for trial by jury at the defendant's election but only in cases where at least one of the charges is murder. Judges may order the presence of pretrial detainees for rendering or amplification of statements or for confronting witnesses. Trials are conducted on the basis of evidence presented by the public prosecutor. Defendants have the right to be present at trial and to consult with an attorney in a timely manner. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right of appeal. The law extends these rights to all citizens.

The law obliges the government to provide public defenders for the indigent. Many public defenders, however, were appointed late in an investigation, after the prosecutor already had evaluated the bulk of the evidence and decided to recommend trial. Public defenders' caseloads remained extremely high, averaging 395 cases per attorney per year.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The constitution and the judicial code establish an independent judiciary in civil matters. Political manipulation of the judicial system remained a problem, and bureaucratic delays hindered access to judicial and administrative remedies for human rights violations. There were problems in enforcing domestic court orders.

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

The law prohibits such actions, and the government generally respected these prohibitions; however, there were complaints that in some cases law enforcement authorities failed to follow legal requirements and conducted unauthorized searches.

A law enacted in September eases requirements for authorities to conduct wiretap surveillance; however, the law denies prosecutors the authority to order wiretaps on their own and requires judicial oversight of any wiretap surveillance.

In an effort to prevent unauthorized searches, the Public Ministry maintained representatives in each PNP division to approve searches. These representatives approved numerous searches during the year.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and in practice individuals generally enjoyed freedom of expression, although there were some official attempts to impede it.

The independent media were active and expressed a variety of views without restriction. The government owned one educational television station and one radio station. The law prohibits newspapers from holding radio and television concessions and vice versa. International media operated freely in the country.

Journalists alleged that the government purchased advertising space to reward news organizations for publishing favorable stories and withdrew advertising funding from news organizations engaged in unfavorable coverage. Legal actions brought by officials of the former administration remained pending against many journalists. The IACHR, the Inter American Press Association, Reporters Without Borders, and other groups criticized these measures as efforts to censor the press.

The law allows prosecution of journalists for vague charges related to exposing private information and documents, even those deemed of public interest. The law also permits prosecution of journalists for publishing information restricted on national security grounds. Nongovernmental organizations (NGOs) asserted that these provisions threatened freedom of speech and press.

In April a judge sentenced the director of the tabloid *El Siglo*, Jean Marcel Chery, and two other journalists to two years in prison for trespassing while reporting on corruption allegedly involving a Supreme Court justice who exercised influence over the lower court that heard the case. The local journalism community and the Inter American Press Association denounced the decision as a clear case of judicial harassment. Chery appealed the decision in November.

In September a court convicted Rafael Berrocal of *La Prensa*, the country's leading newspaper, of calumny and libel against a former Panamanian vice president, now deceased. The court sentenced Berrocal to 200 days in prison or a fine of \$400; Berrocal's appeal of the decision remained pending at year's end.

In July 2008 the Supreme Court overturned former president Moscoso's pardons of several journalists who had been convicted of libel under laws no longer in force. The impact of the ruling remained uncertain because the court returned the cases to their "original state," which was not clarified by year's end.

In September 2008 a judge ordered the seizure of the assets of the local newspaper *El Periodico* for publishing the tax returns of a prominent businessman. After the judgment the newspaper went out of business. The case remained under appeal.

Internet Freedom

There were no government restrictions on access to the Internet and no reports that the government monitored e-mail or Internet chat rooms, except for legitimate law enforcement monitoring of suspects' computers in sex crime cases. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that 23 percent of the nation's populace used the Internet in 2008.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

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

One construction company employee and one PNP officer remained in custody awaiting trial for killing two union members during demonstrations in 2007.

c. Freedom of Religion

The constitution provides for freedom of religion, provided that "Christian morality and public order" are respected, and the government generally respected this right in practice.

The constitution limits public offices that religious leaders may hold to those related to social assistance, education, and scientific research.

Societal Abuses and Discrimination

There were no reports of anti-Semitic acts or of societal abuses or discrimination against any religious groups. There was a Jewish population of approximately 10,000 persons.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/.

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, persons under temporary humanitarian protection (THP), asylum seekers, stateless persons, and other persons of concern.

The government generally permitted freedom of movement for documented refugees and asylum seekers; however, it restricted the freedom of movement of Colombian nationals living in the border region with Colombia under the THP regime, who could only leave these locations with special permits issued by the National Office for the Protection of Refugees (ONPAR).

The law prohibits forced exile, and there were no reports of its use.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. A 1998 decree grants protection to all persons entering the country due to "state persecution based on race, gender, religion, nationality, social group, or political opinion." The decree grants two months' THP status to "displaced persons" in the case of a large influx; in practice the government did not enforce the two-month time limit.

In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. At times border officials and authorities in large urban centers did not have a clear understanding of their responsibilities when dealing with persons seeking asylum or refugee status, which resulted in arbitrary detention and risk of return to countries where their lives or freedom may be threatened.

Asylum seekers and refugees were not provided with documentation in a timely fashion, and the documents provided were not always recognized as valid by public officials, including police, health service providers, schools, and banking institutions. Work permits were issued after a lengthy bureaucratic process.

There were approximately 1,000 recognized refugees in the country. During the year between 240 and 300 persons approached the government seeking refugee status, according to ONPAR.

The law requires that the government's National Commission for the Protection of Refugees, which is convened by ONPAR, meet at least once every three months to determine the status of persons seeking refugee status. In October the commission met for the first time in a year; it reviewed 230 cases and granted refugee status to 41 persons. In December the commission met again and granted refugee status to another 19 persons.

Law 25, enacted in 2008, establishes a legal process to allow persons who have been recognized as refugees for more than 10 years to apply for permanent residence. By October the government had approved 41 cases under this law; another 140 cases were pending.

Persons under THP included approximately 500 displaced persons, mainly of Afro-Colombian heritage, and approximately 300 of their dependents, some of whom were citizens born in Panama of marriages between displaced Colombians and Panamanian citizens. The government did not permit displaced Colombians to move or work outside of their assigned villages.

UNHCR classified 15,000 persons living in the country as "persons of concern" in need of international protection. These included persons for whom the government had denied refugee status and persons in the country who did not apply for refugee status due to lack of knowledge or fear of deportation. UNHCR had a permanent office in the country and was generally granted access to refugees and project sites where it could provide services to refugees, internally displaced persons, and persons under THP.

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

The law provides 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. The law provides for direct popular election every five years of the president, the vice president, legislators, and local representatives. Naturalized citizens may not hold certain categories of elective office.

Elections and Political Participation

On May 3, voters chose Ricardo A. Martinelli Berrocal, the opposition Alliance for Change candidate, as president in national elections considered generally free and fair by international and domestic observers. More than two million citizens voted in elections for president, vice president, 71 legislators, 75 mayors, and 623 local representatives. For the first time, citizens residing overseas who had registered via the Internet were allowed to vote by mail-in ballot; prisoners and hospital patients were also able to vote.

The law requires new political parties to meet strict membership and organizational standards to gain official recognition and participate in national campaigns. The law also requires political parties to be structured democratically, permits independents to campaign for the National Assembly, provides for the autonomy of the Electoral Tribunal, and limits the immunity of representatives in the National Assembly by permitting the Supreme Court of Justice to prosecute criminal cases against representatives. In April the Supreme Court ruled against the electoral prohibition on independent candidates running for president.

Women held six of 71 seats in the legislature. There were six women in the 17-member cabinet and one female judge on the Supreme Court of Justice. The attorney general was a woman.

Five seats in the legislature were designated to represent the country's recognized indigenous regions. In general deputies in the legislature, cabinet members, or members of the Supreme Court of Justice did not identify themselves as members of ethnic or racial minorities.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption and anticorruption mechanisms such as asset forfeiture, whistleblower and witness protection, plea bargaining, and conflict of interest rules.

Corruption remained a problem in the executive, judicial, and legislative branches of government as well as in the police (see section 2.d.). While there were a number of arrests in cases of official corruption, there were also accusations that these arrests were politically motivated. There was little, if any, improvement in systems designed to increase regulatory quality.

In August authorities arrested former minister of education Belgis Castro for embezzlement in a case concerning contracts for removal of fiberglass from public schools. In September authorities fired the deputy director of the Transit and Land Transportation Authority, Roberto Moreno, for allegedly selling more than 200 taxi permits.

There were no new developments in the case of six employees of the Ministry of Education charged in 2008 with embezzling \$1.5 million.

In 2008 the government instituted an Internet-based procurement system that requires publication of all proposed government purchases, evaluation of proposals and monitoring of the procurement process, and advance public notice of intended procurement. An administrative court handles all public contracting disputes. With the change of administration, there were reports of government purchases made via direct contracts, circumventing this system.

Commercial or industrial licenses may be obtained through the country's online business registration service, reducing opportunities for corruption compared with the former process, which involved numerous interactions with local officials.

Public officials were subject to financial disclosure laws, but this information, reported to the government, was not available to the public.

The transparency law provides public access to information from and about public entities with the exception of cabinet meeting minutes. In practice the government was not always forthcoming in response to information requests, obliging journalists to resort to legal remedies. When denying requests, authorities generally provided the rationale for the denials. Requesters can appeal access decisions to the Supreme Court of Justice.

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.

The Office of the Human Rights Ombudsman, elected by the National Assembly, has moral but no legal authority. Between January and May, the Office of the Ombudsman received 90 complaints, 14 of which were against the Ministry of Health. The ombudsman enjoyed the government's cooperation and operated without government or party interference. The office had adequate resources, was considered to be effective, enjoyed public confidence, and issued reports with recommendations on environmental contamination and prison conditions on which the government took action.

The government generally cooperated with international governmental organizations. The UN maintained a significant regional and country-specific presence in the country.

Section 6 Discrimination, Societal Abuse, and Trafficking In Persons

The law prohibits discrimination on the basis of race, gender, disability, language, or social status, but there were allegations that these prohibitions were not always effectively enforced.

Women

The law criminalizes rape, including spousal rape, with prison terms of five to 10 years and eight to 10 years with aggravating circumstances. A 2008 law removed the provision that a perpetrator can marry a victim who is at least age 14 in order to avoid potential charges. Rapes constituted the majority of sexual crimes investigated by the PNP.

Domestic violence against women continued to be a serious problem. Although the law criminalizes domestic abuse and family violence with prison terms of two to four years, there were few convictions for domestic violence, with the exception of killings in the course of domestic abuse.

The DIJ reported 2,855 cases of domestic violence and 715 cases of rape; 80 women died as a result of domestic violence. A 2008 law makes domestic violence an "aggravating circumstance" in homicide cases.

In June the government upgraded the former National Directorate of Women at the Ministry of Social Development to an autonomous agency, the National Institute for Women, with a mandate to reduce domestic violence.

The government operated a shelter in Panama City for victims of domestic abuse or trafficking that offered social, psychological, medical, and legal services.

Prostitution is legal and regulated, with prostitutes required to register and carry identification cards; however, the majority of prostitutes were not registered. Trafficking in women was a problem.

The law prohibits sexual harassment in cases of established employer/employee relations in the private sector and in teacher/student relations; violators can receive one- to three-year prison sentences. The extent of the problem was difficult to determine because convictions for sexual harassment were rare, and preemployment sexual harassment was not actionable. The effectiveness of law enforcement could not be determined due to the small number of cases brought before the courts.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The law prohibits discrimination on the basis of gender, and women officially enjoyed the same rights as men under family, property, and criminal law. The law recognizes joint or common property in marriages, but the government did not allocate sufficient resources to enforce the law effectively.

The law mandates equal pay for men and women in equivalent jobs, but in practice women on average received wages that were 14 percent lower than those received by men for comparable jobs. The Ministry of Social Development (MIDES), through the National Institute of Women, promoted equality of women in the workplace and equal pay for equal work, attempted to reduce sexual harassment, and advocated legal reforms.

Children

Although the law provides that citizenship is derived by birth within the country's territory, children in remote areas may have difficulty in obtaining birth registration certificates. Lack of reporting on sexual exploitation of minors remained a problem, often because of parental involvement or complicity. Sexual abuse of children was reported in both urban and rural areas, as well as within indigenous communities.

MIDES received complaints regarding physical abuse of children. The ministry maintained a free hotline for children and adults to report abuses, and advertised it widely.

MIDES provided funding to children's shelters operated by NGOs in seven provinces. MIDES continued a program that used pamphlets in schools to sensitize teachers, children, and parents about mistreatment and sexual abuse of children.

The law prohibits consensual sex with a girl age 14 to 18 and provides a sanction of one to three years' imprisonment; when the child is younger than 14, the sanction is four to 10 years' imprisonment. The law provides for three- to five-year prison terms for anyone who practices, facilitates, or promotes the corruption of a minor. The law criminalizes child pornography, for which it also provides penalties of three to five years' imprisonment.

Trafficking in Persons

The law specifically prohibits trafficking in persons for the purpose of sexual exploitation. While trafficking for forced labor was not specifically prohibited under the law, it was punishable under other statutes and the constitution.

Persons were trafficked to, from, and within the country. An estimated 50 to 100 persons were trafficked to the country for commercial sexual exploitation in 2008. The PNP Sex Crimes Unit reported that most victims trafficked into the country came from Colombia, the Dominican Republic, and Central America. The primary destinations for victims trafficked from the country were Jamaica and Europe. Most victims trafficked within the country were women and children trafficked into the sex trade. The PNP Sex Crimes Unit reported that the vast majority of trafficking victims were women older than 18 years.

The principal traffickers in the country were owners or administrators of night clubs, massage parlors, and brothels, and most transnational trafficking occurred using valid travel documents and was conducted through official ports of entry.

The PNP Sex Crimes Unit has responsibility for investigating and arresting persons involved in trafficking. The unit worked closely with the PNP Special Section on Crimes of Sexual Exploitation and the Division of Crimes relating to Shame, Integrity, and Sexual Liberty.

The law criminalizes trafficking for commercial sexual exploitation and proscribes the promotion of sex tourism and use of the Internet for soliciting for sexual exploitation. Persons who engage in human trafficking for sexual activity can receive five to eight years in prison or, in cases involving a minor, eight to 10 years. The law permits undercover operations and the monitoring of suspects' computers in sex crime cases.

A government prosecutor, based in Panama City, was dedicated solely to prosecuting trafficking cases. Additionally, each province has a prosecutor trained in trafficking cases. The PNP Sex Crimes Unit investigated cases of child prostitution, child pornography, and sexual trafficking; the Prosecutor's Office initiated its own investigations. There was no information available on the outcome of the investigations.

The law provides for a registry of businesses dedicated to entertainment in the country. It is intended in part to limit requests for visas for those intending to work in the adult entertainment industry, permit monitoring of businesses that apply, and ensure that the businesses operate legally. The law also requires visa holders intending to work in the entertainment industry to attend an antitrafficking education seminar. Visa applicants must provide comprehensive personal information, make a \$1,000 deposit with the Immigration Directorate, and provide proof of a return ticket to their home countries. No entertainment visas have been granted to employees of bars or nightclubs under the new law.

Immigration law emphasizes cases involving minors and provides for a special trafficking victims' unit within the Immigration Directorate.

According to the Integrated Crime Statistics System at the Ministry of Government and Justice, during the year authorities nationwide opened eight cases of trafficking (organizing or facilitating the movement of an individual to be exploited in prostitution against their will) down from 14 cases in 2008, and seven cases of third-party prostituting of a minor, up from five cases in 2008.

According to the National Commission for the Prevention of Crimes of Sexual Exploitation (CONAPREDES), during the year the first circuit prosecutor for Panama City opened five cases of trafficking involving four adults and one minor; nine cases of adults paying for sex with a minor; five cases of third-party prostituting of a minor; and 26 cases of child pornography. Two trafficking cases at the Supreme Court have been pending since 2007.

Outside of Panama City, statistics were poorly maintained and did not reflect systematic forensic practices and often did not specify charges made in particular cases or record ages of victims. However, both NGO and government entities reported anecdotally that sex trafficking was a greater problem in Colon and the interior than in Panama City.

MIDES is charged with protecting victims through shelters and related services. The law does not hold trafficking victims criminally responsible for prostitution or immigration crimes. The law provides for indemnification of victims of trafficking, even if they return to their home country, and for the costs of medical and psychological treatment, temporary housing, legal fees, and emotional suffering.

The country's consular officers provided assistance to Panamanian trafficking victims. MIDES continued providing shelter and other services to victims of commercial sexual exploitation, using substitute families, its own shelter, and the shelter of the NGO Hogar Malambo, which it subsidized. The government shelter, which was located in a former prison, did not have adequate infrastructure to house trafficking victims.

The government worked with the International Labor Organization's (ILO's) International Program on the Elimination of Child Labor (IPEC) on trafficking initiatives, including producing pamphlets on sexual exploitation and trafficking for distribution to public school educators. The Commission on Justice and Peace, a Catholic NGO, counseled victims about their rights and modes of assistance, and the Center of Legal Assistance provided legal assistance for victims. The Center of Family Studies and Training researched trafficking and educated women about trafficking and gender-based crime. The law provides for a registry of minors traveling internationally without parents or other legal guardians.

The Ministry of Government and Justice is responsible for developing policies to reduce trafficking in persons. CONAPREDES allocated funding for combating trafficking and for victims' assistance via member cabinet agencies. To fund CONAPREDES and these activities, the law allows customs authorities to collect one dollar from each tourist leaving the country; however, the government had not implemented a mechanism to collect these funds.

The government cooperated through information sharing with international investigations of persons accused of trafficking.

The State Department's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination based on physical or mental disability; however, the constitution permits the state to deny naturalization to persons with mental or physical disabilities. The law mandates access to new or remodeled public buildings for persons with disabilities and requires that schools integrate children with special needs. In practice persons with disabilities experienced substantial discrimination in employment, education, access to health care, and other state services. Some public schools admitted children with mental and physical disabilities, but most did not have adequate facilities for children with special needs. The government installed ramps in some schools and mainstreamed some children with disabilities. Few private schools admitted children with special needs.

By year's end the ombudsman had received 11 complaints of violations of the rights of persons with disabilities.

The National Secretariat for the Social Integration of Persons with Disabilities is the government agency responsible for protecting the rights of persons with disabilities. The Ministry of Education and MIDES share responsibilities for educating and training minors with disabilities.

The law provides that a minimum of 2 percent of workers at a given company be persons with disabilities, with the Ministry of Labor and Labor Development (MITRADEL) responsible for placing workers with disabilities in suitable jobs; however, in practice placement remained difficult.

The government operated the Family Businesses Project, which assisted low-income families with members with disabilities to open microbusinesses. The government disbursed \$50 monthly and donated rehabilitation equipment to low-income persons with disabilities.

National/Racial/Ethnic Minorities

Minority groups have generally been integrated into mainstream society, but problems continued with negative attitudes among all ethnic communities toward members not belonging to their particular group. Prejudice was directed at recent immigrants; cultural differences, immigration status, and language hindered immigrant and first-generation Chinese, Indians, and Middle Easterners from integrating into mainstream society. Additionally, some members of these communities were themselves reluctant to integrate into mainstream society. Members of these groups often owned major businesses or worked in the country's retail trade: A constitutional provision reserving retail trade for citizens of the country generally was not enforced.

The black community continued to be underrepresented in positions of political and economic power, and many blacks remained clustered in economically depressed areas of Colon and Panama City. Prejudice toward blacks was generally subtle, taking the form of "right of admission" policies at restaurants and commercial establishments, which discriminated against darker-skinned individuals or those of lower social status.

The law prohibits discrimination involving entry to public or commercial establishments; however, in practice, cases of discrimination were difficult to prove and legal remedies difficult to obtain.

There were reports of racial discrimination against various ethnic groups in the workplace. In general lighter-skinned persons were represented disproportionately in management positions and jobs that required dealing with the public, such as bank tellers and receptionists. Some businesses discriminated against citizens with darker skin through preferential hiring practices. Employers often required job applicants to submit photographs with their resume, which the employers used to discriminate against persons based on appearance.

Indigenous People

The law affords indigenous people the same political and legal rights as other citizens, protects their ethnic identity and native languages, and requires the government to provide bilingual literacy programs in indigenous communities. Indigenous persons have the legal right to take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. There were legally designated comarcas (provincial-level indigenous regions) governed by traditional community leaders for five of the country's seven indigenous groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna. The government did not recognize comarcas for the Bri-Bri and Naso communities.

The Ministry of Government and Justice maintained an Office of Indigenous Policy. Although federal law is the ultimate authority on indigenous reserves, local groups maintained considerable autonomy. The government recognized traditional Kuna marriage rites as the equivalent of a civil ceremony. Indigenous workers had greater health problems and mortality rates, suffered from lack of educational and health services, had lower life expectancy, and experienced higher levels of malnutrition compared to nonindigenous workers. The International Fund for Agricultural Development estimated the poverty rate among the indigenous population at 95 percent. Although indigenous persons comprised only 10 percent of the population, they accounted for 19 percent of those considered poor and 34 percent of those in extreme poverty.

Many indigenous people misunderstood their rights and failed to employ legal channels when threatened because they did not have an adequate command of Spanish. Outside settler encroachment continued to threaten indigenous comarcas.

Social and employment discrimination against indigenous people was widespread. Employers frequently did not afford indigenous workers basic rights provided by labor laws such as a minimum wage, social security benefits, termination pay, and job security. Indigenous laborers in the country's sugar, coffee, and banana plantations continued to work under worse conditions than their nonindigenous counterparts. Employers were less likely to provide quality housing or food to indigenous migrant laborers, and the children of these workers were much more likely to work long hours of heavy farm labor than nonindigenous children. An October ILO report estimated that 35 percent of child laborers were located in indigenous areas.

In July the government created a high-level committee chaired by the vice president and led by the vice minister of government to resolve sensitive issues involving land and human right disputes of several indigenous groups.

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

In 2008 the country decriminalized sodomy. There was societal discrimination based on sexual orientation and gender identity, which often led to denial of employment opportunities. The PNP's regulations describe homosexuality as a "grave fault." The advocacy group New Men and Women of Panama advocated for homosexual rights and organized an annual gay pride parade.

Other Societal Violence or Discrimination

The law prohibits discrimination against persons with HIV/AIDS in employment and education, but discrimination continued to be common due to ignorance of the law and a lack of mechanisms for ensuring compliance. The Ministry of Health and Social Security provided treatment for HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

The law recognizes the right of private-sector workers to form and join unions of their choice, a choice that is subject to the union's registration with the government. The law requires a minimum of 40 persons to form a private-sector union and permits only one trade union per business establishment; the ILO Committee of Experts criticized both provisions as violations of workers' rights to organize. The law permits workers to organize unions under a skill set or trade, as long as these unions have 40 members. These unions may operate alongside employer-specific unions in the same business. Executive Decree 27 passed in June protects employees from employer interference in labor rights, specifically including "employer-directed unions," and mandates that unions be freely chosen by workers without penalty. According to the National Council of Organized Workers, 8 to 10 percent of workers in the private sector were unionized.

The law prohibits public servants from forming unions but allows them to form associations, which can bargain collectively on behalf of members. Union leaders for both public- and private-sector unions must be citizens. The government reduced the minimum number of public servants required to form a worker association from 50 to 40, a number the ILO Committee of Experts still considered too high.

The law provides that if the government does not respond to a registration application within 15 days, the union automatically gains legal recognition; however, unionists asserted that such automatic registration did not occur in practice. MITRADEL reported that inadequate personnel resources, case backlogs, and incomplete or inaccurate information in applications delayed the processing of new registrations within the required time frame.

The National Federation of Public Servants (FENASEP), an umbrella organization of 21 public-sector worker associations representing primarily administrative staff of government agencies, was not permitted to call strikes or negotiate collective bargaining agreements, as individual associations negotiate on behalf of their members. Other public workers, such as doctors, nurses, and firefighters, have separate associations that negotiate on their behalf. The law grants public employees a limited right to strike, except for those in areas vital to public welfare and security, including police and health workers. At least 25 percent of the workforce must continue to provide minimum services in the case of administrative workers, and 50 percent of workers providing "essential public services," such as transportation, firefighting, telecommunications, and mail, must continue to provide those services.

The ILO Committee of Experts expressed continued concerns that the government had not amended the law to permit strikes by federations such as FENASEP. The ILO also requested that the government take the necessary steps to guarantee the right to strike for public servants who do not exercise authority in the name of the state, such as transport workers or workers in the export processing zones. Executive Decrees 25 and 26, promulgated June 5, increased transportation workers' ability to strike by limiting the scope of strike restrictions on essential transportation services to those involving public passenger services.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its 9,500 employees but does allow unions to organize and to bargain collectively on such issues as hours and safety and provides for arbitration to resolve disputes.

b. The Right to Organize and Bargain Collectively

The law provides all private-sector and most public-sector workers the right to organize and bargain collectively, and private-sector unions exercised this right widely. The law establishes a conciliation section in MITRADEL to resolve private-sector complaints and provides a procedure for mediation. These conciliation tribunals include representatives from government, labor, and the private sector and address cases in which the claim in dispute is no more than \$1,500. While labor leaders favored these tribunals, some civil society groups criticized the tribunals as routes for circumventing the role of the judiciary and leaving interpretation of labor laws to the discretion of persons who might lack expertise.

For public-sector workers, a Board of Appeal and Conciliation in the Ministry of the Presidency hears and resolves complaints for public-sector workers. If not resolved by the board, complaints are referred to an Arbitrage Tribunal, which consists of representatives from the employer, the employee association, and a third member chosen by the first two. Decisions of the Arbitrage Board are final.

Employers in the retail industry frequently hired temporary workers to circumvent labor code requirements for permanent workers. In lower-skilled service jobs, employers often hired employees under three-month contracts for several years, sometimes sending such employees home for a month and later rehiring them. Employers also circumvented the law requiring a two-week notice for discharges by dismissing some workers one week before a holiday. Due to labor laws that

make it difficult to fire employees who have worked two years or more, employers frequently hired workers for one year and 11 months and subsequently laid them off.

Several laws enacted during the year limit employers' ability to hire temporary or subcontracted workers on serial contracts. In addition, two executive decrees issued during the year strengthened the ability of workers to bargain collectively. MITRADEL's *Manual of Labor Rights and Obligations* provides that unorganized workers can petition MITRADEL regarding labor rights violations and exercise the right to strike; however, only unions can negotiate collective bargaining agreements. However, Supreme Court decisions have recognized that collective agreements negotiated between employers and unorganized workers have legal status equivalent to collective bargaining agreements.

The leaders of the four public-service worker associations enjoyed legal immunity from dismissal and other employer retaliatory behavior in relation to worker representation and organizing activities. The labor code prohibits employer antiunion discrimination and protects workers engaged in union activities from loss of employment or discriminatory transfers.

Unions and collective bargaining are permitted in export processing zones (EPZs) and call centers. A strike is considered legal only after 36 work days of conciliation; otherwise, striking workers could be fined or fired. These procedures were somewhat more prescriptive than those that generally apply.

There were approximately 1,550 employees in the country's 17 EPZs and 8,830 employees in the country's 54 call centers, which operated under the law applicable to EPZs. Other call centers were registered with the Public Services Authority and were not subject to the EPZ's laws.

c. Prohibition of Forced or Compulsory Labor

No law expressly prohibits forced labor of adults or children, although the government stated that forced labor could be prosecuted under provisions of constitutional law and other civil and criminal statutes, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law contains provisions to prevent exploitation of children in the workplace. MITRADEL, which has responsibility for enforcement, was reasonably effective in enforcing the law in the formal sector. During the year the ministry performed inspections to ensure compliance with child labor regulations.

The labor code prohibits the employment of children under age 14, although exceptions can be made for children 12 and over to perform light farm work so long as it does not interfere with their school hours. Children who have not completed primary school may not begin work until age 15. The law prohibits 14- to 18-year-olds from engaging in potentially hazardous work. The law identifies such hazardous work to include work with electrical energy, explosives, and flammable and toxic or radioactive substances; work underground and on railroads, airplanes, or boats; and work in nightclubs, bars, and casinos. Youths under 16 years may work no more than six hours per day or 36 hours per week, while those 16 and 17 years old may work no more than seven hours per day or 42 hours per week. Children under 18 may not work between 6:00 pm and 8:00 am.

Businesses that employ an underage child are subject to civil fines, while employers who endanger the physical or mental health of a child can face two to six years' imprisonment. MITRADEL enforced these provisions in response to complaints and has authority to order the termination of unauthorized employment. The government acknowledged that it was unable

to enforce some child labor provisions in rural parts of the country; due to insufficient staff, MITRADEL conducted only limited inspections in those areas.

According to the 2008 child labor survey performed by the government in conjunction with ILO-IPEC, approximately 90,000 children, 30 percent of whom did not attend school, engaged in labor, predominantly in agriculture and in the informal sector of the economy.

Child labor violations occurred most frequently in rural areas, in subsistence and commercial agriculture, especially during the harvest of coffee, onions, melons, sugarcane, and tomatoes. According to the 2008 survey, 53,300 children (and almost 100 percent of employed indigenous children) worked in the agricultural sector. Farm owners often paid according to the amount harvested, leading many laborers to bring their young children to the fields to help with the work. The problem of child labor in agricultural areas fell most heavily on indigenous families, who often migrated out of their isolated communities in search of paid work and whose frequent migrations interrupted schooling.

According to the 2008 census, 4,500 children between the ages of five and 17 worked as domestic servants, although the law prohibited such employment under age 14. Government enforcement of domestic labor violations was traditionally weak because the place of work was a private residence. Children also worked in the informal sector, where 7,700 performed personal services; 10,500 worked in trade and the repair of motor vehicles and appliances; 3,600 in manufacturing; and 3,100 in construction.

The government provided awareness raising and training on combating child labor for officials and civil society. In January the government created the National Secretariat of Children, Adolescents and Family (SENNIAF) under Law 14. SENNI AF is an independent and autonomous entity with an initial budget of two million dollars. SENNI AF searched the main streets of Panama City looking for children engaged in work and managed a hotline to receive reports of child labor. SENNI AF also operated programs that offered comprehensive services to children at risk and their families, including home visits, tutoring, counseling for parents, and school visits.

As part of the National Plan Against Child Labor (2007-11), the Committee for the Eradication of Child Labor and Protection of Working Adolescents (CETIPPAT) provided scholarships to children ages five to 14 who were working in the metropolitan areas of Panama City and Colon. At the end of the year these programs were also extended to the provinces of Chiriqui and Veraguas. CETIPPAT components included a variety of efforts to improve conditions for working children.

During the year CETIPPAT provided outreach to 3,369 children engaged in or at risk of child labor. The National Institute of Vocational Training for Human Development (INADEH) implemented programs for parents of those children involved in CETIPPAT's outreach program. The joint INADEH/CETIPPAT program focused primarily on the development of technical and administrative skills for parents and guardians of working children and children at risk and during the year gave 85 trainings benefitting 867 persons.

On September 15, the government-supported ILO-IPEC program closed its offices in the country. The NGO Casa Esperanza, CETIPAT, and MIDES continued programs in the comarca of the Ngobe-Bugle, in Santiago de Veraguas, and in Chorrera to provide scholarships to working children, to allow them to begin or return to primary school and to provide their parents job training and literacy programs.

e. Acceptable Conditions of Work

The labor code assigns responsibility for setting minimum wages to a commission composed of representatives from government, employer organizations, and unions. This commission establishes hourly minimum wage rates for specific

regions and for most categories of work. At year's end the minimum wage ranged from \$1.01 to \$1.87 per hour, depending on region and sector.

A worker working 40 hours per week, 50 weeks a year, and earning at the minimum wage median would earn approximately \$2,880, which exceeded the estimated poverty level of \$953 per year. Provisions for domestic workers were made on a monthly instead of hourly basis (\$121 to \$134 per month), since food and the use of housing facilities were considered part of their salary. The agricultural and construction sectors received the lowest and highest minimum wage, respectively. Wages in those sectors did not provide a decent standard of living for a worker and family. Most workers formally employed in urban areas earned the minimum wage or more. Approximately 40 percent of the population worked in the large informal sector and earned far below the minimum wage, particularly in most rural areas, where unskilled laborers earned from three to six dollars per day without benefits. The government did not enforce labor laws in most rural areas.

The law establishes a standard workweek of 48 hours, provides for at least one 24-hour rest period weekly, limits the number of hours worked per week, provides for premium pay for overtime, and prohibits excessive or compulsory overtime. MITRADEL generally enforced these standards in the formal sector.

MITRADEL is responsible for setting and enforcing health and safety standards and generally did so. Information on the number of workplace inspections during the year was unavailable.

Inspectors from MITRADEL and the occupational health section of the Social Security Administration conducted periodic inspections of hazardous employment sites and responded to complaints. The government failed to adequately enforce health and safety standards. Construction workers and their employers were lax about conforming to basic safety measures and equipment was often outdated, broken or lacking safety devices. Construction workers needed training to enable them to create safer working environments.

The labor code requires employers to provide a safe workplace environment, including the provision of protective clothing and equipment for workers, but does not specifically recognize the right of a worker to leave a dangerous work situation without jeopardy to continued employment. In practice workers removed themselves from situations that presented an immediate health or safety hazard without jeopardizing their employment.