

# **PANAMA 2012 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Panama is a multiparty constitutional democracy. In 2009 voters chose Ricardo A. Martinelli Berrocal as president in national elections that international and domestic observers considered generally free and fair. Security forces reported to civilian authorities.

The principal human rights abuses were harsh prison conditions, judicial ineffectiveness, attacks on freedom of expression, and discrimination against various groups and individuals, including some cases of violence.

Other human rights abuses reported included prolonged pretrial detention, corruption, violence against women and children, trafficking in persons, conflicts with indigenous people regarding decisions affecting indigenous lands, and child labor.

The government prosecuted few alleged cases of corruption or abuse of authority by government officials, leaving a widespread perception of impunity.

### **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, but there were some killings by security force members in the line of duty. The security forces conducted internal investigations to determine if the killings were justifiable; however, results of the investigations were not made public.

For example, in January police shot and killed two members of the Ngabe Bugle indigenous group, which blockaded the Pan-American Highway to protest a proposed mining law. The Panamanian National Police (PNP) and the Attorney General's Office conducted internal investigations but did not publish the results.

In October police in Colon attempted to quell protests over a controversial land sale law. Three people were killed during the protests, which lasted for 11 days and involved exchanges of gunfire between police and civilians.

**b. Disappearance**

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices, but the Ombudsman's Office made credible reports that prison facilities engaged in degrading treatment and inhumane punishment.

In February multiple women from the Ngabe Bugle Comarca made complaints of physical and sexual abuse (including two rapes) by members of government security forces during protests in San Felix, Chiriqui. Some of the victims, including one rape victim, were minors. One victim reported that 10 security force members sexually abused her. Another female victim reported that she was not allowed to sit down for 48 hours. Security forces also withheld food and water. The Ombudsman's Office made a request for an internal investigation by the police, and the Pro-Justice Citizenship Alliance--a nongovernment organization (NGO)--presented a report on human rights violations to the attorney general. At year's end there were no status updates on the investigations.

In October police detained approximately 250 protesters and used tear gas to control demonstrations by opponents of a law allowing sale of land within the Colon Free Zone. Reports varied on the exact numbers injured, but three persons were killed and dozens injured. Many observers complained that the PNP used poor crowd control measures, which caused some casualties from the crossfire between the PNP and protesters or looters who resorted to violence. NGOs also alleged illegal arrests, illegal raids, and use of excessive force. A YouTube video showed police officers kicking two demonstrators on the ground. One detainee reported that police poured gasoline on his body while in detention and did not allow him to change clothing. Subsequently, he had chemical burns on his body. A police officer shot at a *La Prensa* newspaper photographer, who was unharmed. The Pro-Justice Citizenship Alliance worked with other social and interreligious organizations to coordinate a special human rights commission that received complaints in Colon regarding the protests. The commission had not published its report by year's end. The PNP, Ombudsman's Office, and the Attorney General's Office initiated separate investigations, but there were no updates on those investigations at year's end.

Between January and October, the National Police Internal Affairs Office opened 515 disciplinary proceedings against police, including 126 for abuse against civilians, 182 for inappropriate conduct, four for abuse of inmates, and other proceedings for the use of excessive force and other abuse. Between January and August, the Ombudsman's Office received three complaints against police for abuse of authority. Investigations in most of these cases continued through December, although authorities dismissed 89 PNP officers and placed many others on "semipermanent vacation."

As of August the 2011 case in which police officers physically abused Rafael Perez Castillo remained in criminal court.

### **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 lack of prison guards.

Physical Conditions: Problems included overcrowding; lack of medical services; lack of potable water; and inadequate ventilation, lighting, and sewage. Prison capacity increased as new pavilions were built to hold close to 1,000 inmates. As of December the prison system had an intended capacity of 8,334 persons but held 14,605 prisoners (13,579 male inmates and 1,026 female). In an effort to alleviate overcrowding, the government during the year released 922 inmates who had completed two-thirds of their sentences.

Men and women, and juveniles and adults, were held separately. Pretrial detainees shared cells with convicted prisoners due to space constraints, but prison authorities began to separate the two groups. As of November, 42 percent of pretrial detainees were separated from convicted prisoners. Although prison conditions for women were generally better than those for men, both populations remained overcrowded, with poor medical care and lack of basic supplies for personal hygiene. Juvenile pretrial and custodial detention centers also suffered from overcrowding and poor conditions. Inmates had inadequate education and supervision. In all prisons inmates complained of limited time outside cells and limited access for family members. Small jails attached to local police stations sometimes held prisoners for days or weeks, and police officers who guarded them lacked the necessary custodial training to prevent abuses.

In February the government opened a new 12- million-balboa (\$12 million) juvenile rehabilitation center in the Pacora community that can hold up to 194 inmates. The center included a medical center with one full-time doctor and a registered nurse. The new center experienced setbacks, however. In June, 24 inmates escaped due to malfunctioning cell locks; 23 of the inmates were detained and returned to the center. The escape revealed construction defects in the facility, and the minister of government gave the responsible contractor three months to fix them. At year's end the facility was in full working order with a complete security video camera network and potable water and sewage system. In July the Ombudsman's Office inspected the center and found that it had reasonable sanitary conditions, but the lack of public transportation in the area made it difficult for relatives to visit inmates. Legal provisions governing juvenile rehabilitation prohibit placing unsentenced pretrial inmates into the Pacora population. In December there were 77 inmates at the Pacora facility and 153 at the nearby Arco Iris pretrial detention facility in Tocumen.

Prison medical care was inadequate due to lack of personnel and medical resources. Although the Ministry of Health loaned 19 physicians to the prison system, prison medical facilities operated only 12 hours a day. Clinics within La Joya and La Joyita prisons provided first-aid assistance but lacked the capacity to attend to more serious medical problems. La Joyita had a 60-bed clinic, but it remained underutilized due to the lack of guards to watch ill detainees. In many cases authorities transferred patients to public clinics instead. However, there were often difficulties arranging for transportation of the inmates to public clinics. HIV/AIDS, tuberculosis, and other communicable diseases were common among the prison population.

As of November nine inmates were killed in inmate-upon-inmate violence in prisons, four died of chronic illnesses, and four died of natural causes.

As of July, 2,764 inmates were enrolled in education programs inside the prison, three inmates attended schools outside the prisons, 792 inmates received labor training, 152 inmates provided community service, and 1,173 inmates worked inside the prisons. The system continued to apply the "2x1" reduction in time served (one day reduced for each two days of work or study).

Administration: The Ministry of Government oversees all prisons in the country through the National Directorate of the Penitentiary System (DGSP). An interagency commission created in 2011 to review protocols and standard operating procedures within the penitentiary system agreed to a four-stage plan for

replacing police officers with civilian prison guards for internal security in most prisons. In September transfer of responsibilities for internal security was completed for most prisons, and civilian custodians took over in all but La Joya, La Joyita, and Nueva Esperanza prisons, which are the three largest in the country. The PNP controlled perimeter security for all prisons.

The law governing the penitentiary system does not address promotion by meritocracy and lacks a career development plan as well as a salary scale. During the year several prison directors and custodians left the system to take better paid jobs. By the end of August, the DGSP fired 19 custodians for corruption or abuse of authority. In April the Second Criminal Court called 12 persons (nine police, two civilian custodians, and the Juvenile Center director) to trial over a 2011 fire in the juvenile detention center, but no date had been set for the first hearing by the end of the year.

Prison record keeping was inadequate, but the government was updating its software in order to address this. Judges may order probation as an alternative to sentencing for nonviolent juvenile offenders. Judges placed more than 300 nonviolent juvenile offenders on probation, which requires psychological counseling, regular school attendance, and regular meetings with a social worker. The new accusatory justice system, now active in four provinces, includes provisions for plea bargaining and thus reduces imprisonment of nonviolent adult offenders (see section 1.e.).

The government started a pilot program for electronic monitoring, but only for nonviolent pretrial inmates. Only 35 inmates participated in the program, a decrease from 45 in 2011. A lack of familiarity with the program among prosecutors, judges, and inmates prevented further use of electronic monitoring. In August the UN Office on Drugs and Crime (UNODC) conducted a feasibility study for bracelet use under the new accusatory judicial system to determine the feasibility of expanding their use.

Prisoners could submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions, but authorities did not document the results of such investigations in a publicly accessible manner. The Ombudsman's Office negotiated and petitioned on behalf of prisoners and received complaints about prison conditions. The Ombudsman's Office also conducted weekly prison visits, and the government generally did not monitor its meetings with prisoners. As of September the Ombudsman had received 25

complaints of physical abuse committed by PNP agents, but there was no information on how many complaints were made by or on behalf of inmates.

Prisoners at most facilities had reasonable access to visitors and could observe their religious practices. The Catholic NGO Justice and Peace made regular visits and reported unobstructed access by various church groups of different faiths. In September penitentiary authorities reduced prison access for religious groups to a maximum of two religious representatives at a time. Religious organizations were also required to submit an annual action plan to justify access to prisoners. The change came as a result of multiple instances of dubiously linked religious representatives smuggling contraband into the prisons. The Ombudsman's Office and the Ecumenical Council of Churches concurred with the new requirements.

Monitoring: The government investigated and monitored prison and detention center conditions. It permitted prison monitoring by independent nongovernmental observers but did not report receiving any such requests.

Improvements: The government took several steps to improve prison and detention center conditions. To improve record keeping, it sought bids for installation of a new software program that would include comprehensive information on every inmate, including data on legal status, hearing, and sentencing dates.

In 2011 the government opened a Penitentiary Training Academy to address human rights, prisoner's rights, and penitentiary law. As of September 490 custodians had received training on penitentiary law and human rights at the academy in collaboration with the School of Human Rights of the Ombudsman's Office. Training for prison directors under the auspices of UNODC at the Dominican Republic's National Penitentiary School continued during the year.

#### **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.

In October police detained approximately 250 protesters following the protests in Colon (see section 1.c.). The Ombudsman's Office reported that under an emergency curfew, the PNP arrested many citizens without following due process.

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

The country has no regular military forces. The PNP is responsible for internal law enforcement and public order. Civilian authorities in the Ministry of Public Security maintained effective control over all police, investigative, border, air, and maritime forces in the country. The government has mechanisms to investigate and punish abuse and corruption, but impunity was a problem.

Various laws limit use of force. One requires that police respect human rights and prohibits torture, cruelty, or other inhumane or degrading behavior. However, another law prohibits detention or any internal discipline against police accused of using excessive force prior to a conviction. In February a unanimous ruling by the Supreme Court, ruling on a specific challenge, declared the application of the latter law in this specific case invalid, but at year's end the law remained in effect.

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

Police generally apprehended persons openly and did not practice arbitrary or secret arrest and detention. The Prosecutor's Office issues arrest warrants based on evidence. The law provides for suspects to be brought promptly before a judge, but 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 for a limited number of crimes. Detainees gained 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 the detention of minors for 72 hours. By law the preliminary investigation phase of detention may last from eight days to two months, and the follow-up investigation phase can last another two to four months, depending on the number of suspects.

Pretrial Detention: The government regularly imprisoned inmates for more than a year before a judge's pretrial hearing, and in some cases pretrial detention exceeded the minimum sentence for the alleged crime, largely because of judicial inefficiency and the use of a written inquisitorial system. As of July, according to government statistics, 66 percent of prisoners were pretrial detainees. Courts in the

four provinces that began to use the accusatorial system saw a decreased case backlog as one result of the new system.

Additionally, lack of coordination among judicial authorities, prison authorities, and the PNP over transportation of detainees to trials led to a significant increase in the number of prisoners who missed hearings key to resolving their legal cases. Street protests in October also affected the transportation of inmates to hearings. Judicial statistics showed that as of December, 59.1 percent of scheduled hearings had to be cancelled due to the defendant's absence. Rescheduling hearings could take up to a year as a result of judicial inefficiency. Some hearings for murder cases were rescheduled for 2015. As of December only 24 PNP agents in a force of approximately 17,000 belonged to the PNP penitentiary unit in charge of inmate transfers.

During the year authorities closed down the La Palma prison in the Darien and transferred inmates to La Joya prison in Panama City. Conflicts regarding legal jurisdiction of cases arose. As of December the courts and penitentiary system had not resolved the issue, thus prolonging pretrial detention for those affected.

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

The law provides for an independent judiciary; however, the judicial system was inefficient and susceptible to corruption and outside influence, and it faced allegations of manipulation by other government branches.

The Directorate of Judicial Investigation, under PNP administrative control, provides investigative services to the judicial system. At the local level, mayors appoint administrative judges (corregidores) who exercise jurisdiction over minor civil cases and the arrest and imposition of fines or jail sentences of up to one year. Outside of Panama City, this system had serious shortcomings. Such judges usually had no legal training or other pertinent expertise. Defendants lacked adequate procedural safeguards. Appeal procedures were generally nonexistent. Affluent defendants often paid fines, while poorer defendants faced incarceration.

#### **Trial Procedures**

The law provides that all citizens charged with crimes enjoy a presumption of innocence and have rights 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 investigative phase of proceedings.

On September 2, the government began implementing the new code of criminal procedure (designed to transition the country from an inquisitorial to an accusatory system of justice) in the provinces of Los Santos and Herrera. This new system was first installed in Veraguas and Coclé Provinces in September 2011. The government budgeted 38 million balboas (\$38 million) for the four-phase implementation process, pending since 2009, which was expected to conclude in 2014. The system, which aims to expedite justice, includes three stages: prosecutorial investigation overseen by a guarantee judge whose responsibility is to ensure due process, an indictment request by the prosecutor, and oral trials with three judges. According to the Public Ministry, 39 percent of the cases heard under the new system involved theft, 33 percent involved domestic violence, and 13 percent murder. According to authorities, the new system reduced legal processing time by almost 50 percent compared to the inquisitorial system in effect in the rest of the country.

In January 2011 the Supreme Court of Justice ruled in favor of reactivating a 1999 law that created a fifth chamber within the Supreme Court. The chamber would handle only constitutional issues. The Supreme Court's decision allowed the administration to appoint three new justices in June. After violent street protests in June and pressure from civil society and opposition political parties calling for the withdrawal of the appointments of the three new justices and the law itself, on July 5, Chief Justice Alejandro Moncada submitted a bill to the National Assembly requesting derogation of the law that established the fifth chamber. On August 30, the president signed the law, and the appointment of the justices was cancelled.

Under the inquisitive judicial system, which is in force in all but five provinces, trials are open to the public. The law provides for trial by jury if the defendant so chooses, but only if one of the charges is murder. Judges may order the presence of pretrial detainees for providing or expanding upon 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 may confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to relevant government-held evidence. Defendants have a right of appeal. The law extends these rights to all citizens, and the judiciary generally enforced them.

The law obliges the government to provide public defenders for the indigent, and an estimated 80 percent of inmates used them in 2011. In many cases public defenders received the case late in the investigation, after the prosecutor had evaluated most of the evidence and decided to recommend trial. In 2011 the government hired 29 new public defenders to help reduce the system's backlog, but caseloads remained very high, averaging 300-350 cases per attorney that year.

During the year the judiciary continued the 2011 mobile court program within the country's largest prison complex. Trailers placed in La Joya and La Joyita served as official courts to overcome problems in transporting prisoners to trial. The placement of judges, prosecutors, and legal staff within the complex increased the capacity of each court to five hearings per day. However, judges complained that the trailers' size limited space for participants, making it an uncomfortable work area. As an additional measure to decongest the system, the judiciary accepted hearings via video for charges other than homicide. Judicial records indicated that during 2011 pretrial detainees submitted video hearings from La Joya, La Joyita, David, Penonome, Llano Marin, Aguadulce, and Santiago prisons. In September the government opened a new facility for video hearings in the district of San Miguelito.

### **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. Alleged political manipulation of the judicial system remained a problem, and bureaucratic delay hindered access to judicial and administrative remedies in some court cases. Problems continued in enforcement of domestic court orders.

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

The law prohibits such actions, and the government generally respected these prohibitions. Nevertheless, there were complaints that in some cases law-enforcement authorities failed to follow legal requirements and conducted unauthorized searches. The Public Ministry maintained representatives in each PNP division to approve searches, and they approved numerous searches during the year.

The law also sets forth requirements for conducting wiretap surveillance. It denies prosecutors authority to order wiretaps on their own and requires judicial oversight. During the year several citizens claimed to have been wiretapping targets after making statements critical of the government.

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

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

The constitution provides for freedoms of speech and press, but there were some attempts by the government to impede the media's freedom of expression and silence criticism of public officials.

Freedom of Speech: A poll conducted by the Forum of Journalists concluded that 82 percent of local journalists considered freedom of expression restricted by threats and pressure from President Martinelli's administration.

Freedom of Press: In February indigenous mining protests blocked the Pan American Highway near Vigui in the province of Veraguas and in San Felix in the province of Chiriqui. The PNP, as well as demonstrators, threatened local and international journalists covering this major demonstration. The government suspended cell phone and Internet service in the area.

Violence and Harassment: According to the Journalists Union of Panama, there were 60 cases of harassment and legal actions against journalists during the year, an increase of 275 percent from 16 cases in 2011 and a 400 percent increase from 12 cases in 2010.

Dario Fernandez Jaen, owner of regional radio station Radio Mi Favorita and former governor of Cocle Province, was shot to death in front of his house in November 2011 in what was thought to be a botched robbery attempt. However, developments in the murder investigation linked his death to a network of land speculators and corrupt government officials working for the National Registry that Jaen had exposed during his weekly radio show shortly before his murder.

*La Prensa* founder Roberto Eisenmann sharply criticized the government and President Martinelli in a February opinion article and a May television interview, opining that government corruption endangered Panamanian democracy. Soon afterward the General Revenue Office (DGI) announced the outcome of a tax audit begun in 2011. Eisenmann was accused of evading taxes on earnings from his

business and ordered to pay three million balboas (three million dollars). Rather than pursue financial payments, the DGI later announced that some 35 different assets of the company totaling \$3,076,355 would be seized instead. As of December the tax case was still pending in court.

On August 2 and 3, Transcribe Trading (TCT), a construction company, blocked the entrance of *La Prensa* and *Mi Diario* with dump trucks, delaying distribution of newspapers to the public. *La Prensa* had days earlier published a story alleging corruption in the awarding of public contracts for road construction and infrastructure projects to TCT. The trucks left after President Martinelli arrived on the scene and ordered removal of the vehicles. Journalists criticized the PNP for being on the scene but not disbanding the blockade.

Censorship or Content Restrictions: The Inter-American Commission on Human Rights, Inter-American Press Association, the NGO Reporters without Borders, and other groups criticized government efforts to censor the press. In January the president supported a bill introduced by his party in the National Assembly to penalize speech that criticized the president and his administration. The bill was withdrawn after debate.

Libel Laws/National Security: Legal actions brought by officials of the former government remained pending against many journalists. There were nine new judicial actions taken against journalists during the year, seeking a total of 19.5 million balboas (\$19.5 million). At year's end six cases were pending a decision from the tribunals, and one case was in the investigative stage with the Seventh Circuit Court.

## **Internet Freedom**

There were no government restrictions on access to the Internet, but there were anecdotal reports that the government monitored private e-mails. In a few cases, law enforcement monitoring of suspects' computers led to arrests for sex crimes. According to the International Telecommunication Union, 29 percent of households had Internet access and 43 percent of citizens used the Internet in 2011.

From February 3-7, the government cut off cell phone and Internet services in Veraguas and Chiriqui Provinces during protests by the Ngabe Bugle indigenous group that were repressed by the PNP and the Panamanian National Border Service (SENAFRONT) patrol units. According to the Public Utilities Authority, it received orders from the National Security Council of the Ministry of the

Presidency to restrict communications between Horconcitos (Chiriqui) and Vigui (Veraguas). Users filed multiple lawsuits charging that the action threatened freedom of communication and information.

### **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 freedoms of assembly and association, and the government generally respected these rights in practice. However, police at times used force to disperse demonstrators, especially when highways were blocked. The law also states that anyone who, through use of violence, impedes the transit of vehicles on public roads or causes damage to public or private property may be sentenced to imprisonment for six to 24 months.

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

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

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

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice, except in Darien Province. 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 refugees, persons under temporary humanitarian protection (THP), asylum seekers, and other persons of concern. The UNHCR has a unit dedicated to Panama within its regional office.

Early in the year, the government established a National Working Group under the leadership of the National Office for the Protection of Refugees (ONPAR) with the participation of UNHCR, which provides technical support for these problems. ONPAR's main office is located in the capital. Additionally, three ONPAR employees maintain a presence in different regions of the Darien Province and one on the border with Costa Rica.

In-country Movement: The government generally permitted freedom of movement for recognized refugees and asylum seekers; however, it restricted the freedom of movement of Colombian citizens living in the Darien region bordering Colombia under the THP regime. These individuals could leave those locations only with special temporary permits issued by ONPAR.

## **Protection of Refugees**

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. A Colombian THP group has lived in the Darien region for more than 17 years. A 2011 law provides an avenue for those under THP to obtain legal permanent residency and requires the government to complete this regularization process within two years from the passage of the law. ONPAR coordinated with UNHCR, the National Civil Registry, and the Colombian embassy in this process, which had not been completed by year's end.

There were 1,523 recognized refugees in the country as of October 1. Nearly 100 new individuals apply for asylum before authorities each month. The majority of asylum seekers (76 percent through April) were from Colombia. Asylum seekers in administrative detention complained that limited access to asylum procedures before ONPAR and detention center conditions did not comply with international standards.

SENAFRONT detected 2,658 Cuban migrants who arrived during the year, compared with 298 in 2011. Most passed through Panama on their way north, with only 30 having requested asylum between January and April.

According to UNHCR and its NGO implementing partners, hundreds of persons living in the country may be in need of international protection. These included persons who were not granted asylum, persons whose claims were denied, and persons who did not apply for refugee status due to lack of knowledge or fear of deportation. Some sought to legalize their status in other ways. At an event held in October, 5,100 immigrants applied to regularize their status through the "Crisol de Razas" program. This program allowed illegal immigrants an opportunity to legalize their status, providing they could prove employment and pay approximately 1,300 balboas (\$1,300) in fees.

Refoulement: The law incorporates protections against refoulement and sanctions for illegal/irregular entry. At times, however, border officials and authorities in

urban centers did not have a clear understanding of their responsibilities when dealing with persons seeking asylum or refugee status. This lack of clarity resulted in arbitrary detention and placed asylum seekers at an increased risk of forced return to countries where their lives or freedom could be threatened. There was one confirmed case of forced return, when the government deported a Nicaraguan applicant for asylum while his case was pending before ONPAR.

Refugee Abuse: Refugee women in border areas and in certain urban neighborhoods continued to be at risk for gender-based violence.

The government again reported an increase in migration of people from outside the region. These persons were primarily from South Asia and Africa en route to North America. During the year 12 sub-Saharan African nationals applied for asylum, and four Afghans had their applications denied. Authorities typically held extra-continental migrants in detention while their identities were verified and their asylum applications were reviewed. As of September 13, there were 139 detainees held in the male immigration detention facility and approximately 15 in the female facility.

Employment: The government did not permit asylum seekers and refugees to freely move within the country. Only refugees recognized by Panamanian authorities have the right to work. Recognized refugees complained that they faced discriminatory hiring practices.

Access to Basic Services: Refugees were sometimes denied access to education, while others were not issued diplomas if they could not present school records from their country of origin.

Durable Solutions: There is no legal route for refugees to obtain legal permanent residency or to nationalize in Panama.

Temporary Protection: The only persons accorded temporary protection were the 863 people recognized with THP status, who were mostly of Afro-Colombian heritage. A 2011 law established procedures for this group of refugees to become permanent residents, and UNHCR and civil society organizations played an active role in implementation of the law. ONPAR is responsible for the process with support from the Civil Registry Office.

### **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, vice president, legislators, and local representatives. Naturalized citizens may not hold specified categories of elective office.

### **Elections and Political Participation**

Recent Elections: In May 2009 voters chose Ricardo A. Martinelli, the opposition Alliance for Change candidate, as president in national elections independent observers considered generally free and fair.

Political Parties: The law requires new political parties to meet strict membership and organizational standards to gain official recognition and participate in national campaigns. During the year three of the five legally registered political parties held internal elections per their bylaws.

Participation of Women and Minorities: Women held six seats in the 71-member legislature and three places in the 17-member cabinet. 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 did not identify themselves as members of ethnic or racial minorities.

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

The law provides criminal penalties for official corruption, but the government generally did not implement these laws effectively. There were allegations that government officials engaged in corrupt practices with impunity. Corruption remained a problem in the executive, judicial, and legislative branches as well as in the security forces.

Anticorruption mechanisms such as asset forfeiture, whistle blower and witness protection, plea bargaining, and professional conflict-of-interest rules existed. Although the law provides for judicial appointments through a merit-based system, civil-society groups maintained that political influence and undue interference by higher-level judges undermined the system.

The National Transparency Council against Corruption (CNTCC) combats and investigates government corruption and is headed by anticorruption czar Abigail

Benzadon. CNTCC was criticized for not operating effectively and independently. The CNTCC appeared to be adequately resourced and in November inaugurated a regional anticorruption academy.

Corruption among police officers continued to be a problem, although the Ministry of Public Security improved accountability within the security services. The PNP worked with the ministry to reform its Internal Affairs Office to create a more transparent method for handling traditional internal affairs problems for all security services.

In a 2011 case in which authorities charged two labor ministry officials receiving bribes from a foreign businessman who hired workers without work permits, authorities dismissed both officials, and the case remained under investigation at year's end.

In September authorities postponed the trial for embezzlement of former minister of education Belgis Castro until March 2013. Separately, in August, the First Criminal Court in La Chorrera called a second hearing on charges that Castro and nine other individuals embezzled 153,000 balboas (\$153,000) in 2010. Castro remained free on bail but was forbidden to leave the country while the trials continued.

The law requires certain executive and judicial branch officials to submit a financial disclosure statement with the Comptroller General's Office. In the statement, officials report tax returns, bank accounts, outstanding debts, and organization memberships. The information is not made public. Authorities place criminal charges only in cases of illicit gain, although officials have their paycheck withheld if they do not file.

The law provides for public access to information about public entities, with the exception of cabinet meeting minutes. The government often, but not always, responded to inquiries for information. Most such requests came from lawyers. Denials of information can be appealed to the Supreme Court, and journalists generally made use of this recourse. Deadlines are 30 days, and there are no processing fees. There are sanctions for noncompliance, primarily fines. There was minimal public outreach or training on freedom of information laws and procedures. In October 2011 the environmental NGO Centro de Incidencia Ambiental appeared before a hearing at the Inter-American Human Rights Commission to denounce the government's continued denial of public information.

Government institutions shared information more quickly and efficiently as a result of the hearing.

The government made a commitment to publishing public information on official Web sites. However, many government ministries and agencies did not update their sites, and statistics or other information were often more than one year old or unavailable. Anticorruption czar Abigail Benzadon publicly stated that only 34 percent of the 103 government agencies kept their Web sites up to date with transparency information as mandated by law.

### **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.

Government Human Rights Bodies: The ombudsman, elected by the National Assembly, has moral but not legal authority, received government cooperation, and operated without government or party interference. The Ombudsman's Office referred cases to the proper investigating authorities.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, but the government did not always enforce these prohibitions effectively.

#### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, with prison terms of five to 10 years, or eight to 10 years under aggravating circumstances (use of a weapon). Rapes constituted the majority of sexual crimes investigated by the PNP and its Directorate of Judicial Investigation. However, NGOs reported that many women were reluctant to report rape to the authorities due to fear of retaliation, inadequate response, and social stigma. Nonetheless, in February multiple women from the Ngabe Bugle Comarca made complaints of physical and sexual abuse (including two rapes) by government security forces during the protests in San Felix, Chiriqui (see section 1.c.). The Integrated

National System for Criminal Statistics (SIEC) within the Ministry of Security reported 1,100 cases of rape during the year.

Domestic violence continued to be a serious and underreported problem. The law criminalizes domestic abuse and family violence with prison terms of two to four years and makes domestic violence an aggravating circumstance in homicide cases. However, there were few convictions for domestic violence. SIEC statistics reported 1,995 cases of domestic violence from January through June, which the government asserted was a 24 percent decline from the previous year. Statistics from the Panamanian Observatory Against Gender-Based Violence, run by the Human Rights Ombudsman's Office, showed that 13 women died as a result of domestic violence from January through August.

The government--through the National Institute for Women Affairs--operated shelters in Panama City, Chiriqui, and Colon for victims of domestic abuse and offered social, psychological, medical, and legal services. In addition the government built a seven-apartment shelter for domestic abuse victims to be operated by the Panamanian Observatory Against Gender-Based Violence.

Sexual Harassment: The law prohibits sexual harassment in cases of established employer/employee relations in the public and private sectors and in teacher/student relations; violators face up to a three-year prison sentence. The extent of the problem was difficult to determine, as 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. It was presumed that many sexual harassment cases were unreported.

Reproductive Rights: Couples and individuals had the right to decide the number, spacing, and timing of their children, and they 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, except in provincial-level indigenous regions, where it was limited, according to the American Red Cross.

Discrimination: The law prohibits discrimination on the basis of gender, and women enjoyed the same rights as men under family, property, and criminal law. The law recognizes joint and common property in marriages. The law mandates equal pay for men and women in equivalent jobs, but surveys showed that women received approximately 36 percent less than men for comparable work. The

Ministry of Social Development (MIDES) and 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**

Birth registration: Although the law provides citizenship for all people born in the country, children in remote areas sometimes had difficulty obtaining birth registration certificates.

Child Abuse: MIDES maintained a free hotline for children and adults to report child abuse and advertised it widely. From January to September, the hotline received 22,316 calls. The ministry provided funding to children's shelters operated by NGOs in seven provinces and continued a program that used pamphlets in schools to sensitize teachers, children, and parents about mistreatment and sexual abuse of children.

Child Marriage: The minimum legal age for marriage is 18, but girls may marry at 14 and boys at 16 with parental consent. According to the UN Children's Fund, 1 percent of children between 12 and 17 years old were married as of 2010.

Sexual Exploitation of Children: Sexual abuse of children was reported in urban and rural areas as well as within indigenous communities. Lack of reporting on sexual exploitation of minors remained a problem, often because of parental involvement or complicity.

The law prohibits consensual sex with children ages 14 to 18 and imposes a penalty of up to three years' imprisonment for the crime. If the child is younger than 14, the act is punishable with 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, and it criminalizes child pornography with the same penalty. The penal code also punishes individuals for selling or negotiating the purchase of sexual favors from prostitutes with penalties of up to 10 years' imprisonment when the victim is under 18. Sexual tourism involving children is also punishable.

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 annual report on compliance at

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

## **Anti-Semitism**

There was a Jewish population of approximately 12,000 persons. There were no reports of anti-Semitic acts.

## **Trafficking in Persons**

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

## **Persons with Disabilities**

The law prohibits discrimination based on physical, sensory, intellectual, or mental disability, but the constitution permits the denial of 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 access to transportation, employment, education, access to health care, and the provision of other state services. The fleet of new buses was initially wheelchair accessible when first introduced in 2011, but the subsequent installation of turnstiles made access difficult for passengers in wheel chairs. Most businesses had wheelchair ramps and handicapped parking spaces as required by law, but in many cases, they were not up to government specifications as to size. 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.

In June President Martinelli signed a law establishing the Guardian Angel program, which provides a subsidy of 80 balboas (\$80) per month for children with severe physical disabilities. The program has an annual budget of 14 million balboas (\$14 million). To qualify, the parents or guardian of a child must be living in poverty and must submit medical certification as to the severity of the disability and the child's dependency on another person. In September the National Assembly approved a law creating the Ann Sullivan Center for children with autism.

In June 2011 a group of persons with disabilities challenged Law 35 before the Supreme Court on grounds of discrimination and the protection of private information. The law, passed in 2010, mandates that the National Electoral Tribunal include a person's disabilities as well as blood type and allergies on their national identification card in case of emergency. The law also requires the National Transportation Authority to include the same information on a state-issued driver's license. As of November there was no ruling from the court.

The National Secretariat for the Social Integration of Persons with Disabilities (SENADIS) 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. SENADIS also distributes subsidies to NGOs dealing with disabilities issues. In August the government approved 86,000 balboas (\$86,000) to support SENADIS' "Agora-Panama" project in Panama and Colon Provinces that trained 1,500 blind persons on how to enter the job market. In September SENADIS distributed 100,000 balboas (\$100,000) in subsidies to 661 persons with disabilities in the poorest communities in the country. The funds were intended for medicines and food. Also in September SENADIS conducted training at public elementary schools to educate students how to interact with classmates with disabilities.

The law stipulates a 2 percent quota for persons with disabilities within the workforce. The Ministry of Labor and Labor Development (MITRADEL) is responsible for referring workers with disabilities to employers for suitable jobs; however, in practice successful hiring by private sector employers remained difficult. The Ombudsman's Office received 15 complaints of governmental violations involving the labor rights of persons with disabilities.

The government continued to operate the Family Businesses Project, which assisted low-income families with disabled members to open microbusinesses. The government provided them with 50 balboas (\$50) per month and donated rehabilitation equipment to low-income persons with disabilities. The government also provided five vehicles to state-run hospitals and physical rehabilitation centers to allow for the proper transfer of patients in wheelchairs.

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

Minority groups have generally been integrated into mainstream society. However, prejudice was directed at recent immigrants; cultural and language

differences and immigration status hindered integration into mainstream society by immigrant and first-generation individuals from China, India, and the Middle East. 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 retail trade. A constitutional provision reserving retail trade for citizens of the country generally was not enforced.

The Afro-Panamanian community continued to be underrepresented in positions of political and economic power. Areas where they lived conspicuously lacked government services and social-sector investment. Prejudice toward blacks was generally subtle, taking the form of unofficial “right-of-admission” policies at restaurants and commercial establishments that discriminated against darker-skinned individuals or those of lower social status.

The law prohibits discrimination in access to public accommodations such as restaurants, stores, and other privately owned establishments. Cases of discrimination in public accommodation were not commonly filed.

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. In December authorities fined a business 1,000 balboas (\$1,000) for discrimination after the owner refused to accept a job application and shouted racial epithets at a black Panamanian.

### **Indigenous People**

The law affords indigenous persons 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 individuals have the legal right to take part in decisions affecting their lands, cultures, traditions, and the allocation and exploitation of natural resources. However, in practice their participation in society continued to be marginalized. There were legally designated areas governed by traditional community leaders for five of the country’s seven indigenous groups, including the Embera-Wounaan, Ngabe Bugle, and Kuna communities. The government did not recognize such areas for the smaller Bri-Bri and Naso communities. In June the National Land

Authority delivered two new titles encompassing 3,310 acres of collective lands to the Embera-Wounaan. Six collective land claims were pending at year's end.

The Ministry of Government contains an Office of Indigenous Policy. Although the country's law is the ultimate authority on indigenous reservations, indigenous groups maintained considerable autonomy. Nevertheless, many indigenous persons misunderstood their rights and failed to employ legal channels when threatened because they did not have an adequate command of the Spanish language.

During the year there were multiple conflicts between the government and indigenous groups regarding decisions affecting indigenous land. SENAFRONT clashed with Guna Comarca authorities over the extent of autonomy while on border patrol operations in Guna territory. The Gunas posited that no operations can be carried out in their territories without notifying their General Congress; however, SENAFRONT maintained it has authority to conduct operations within the comarca.

Indigenous communities continued to fight against illegal settlements on their land. Violence erupted on multiple occasions between the Embera and settlers during the year. In March Wounaan residents and settlers clashed over an illegal logging project; two persons died, and three were injured. Multiple settler families continued to reside in the Embera-Wounaan Comarca pending a final decision from the Supreme Court on claims to the land. As of December the land case was still pending. Guna from the Guna Madugandi Comarca requested government assistance in removing illegal settlers from their land. In October Guna residents along with police officers evicted 14 settler families and burned their properties. Multiple settlers continued to live on the Guna land illegally.

In late January the Ngabe Bugle closed the Pan-American Highway to protest a proposed mining law that removed protections against new mining and hydroelectric concessions and reinstated concessions cancelled earlier. The January protests lasted for a week and resulted in the death of two Ngabes, multiple injuries, and detentions resulting from riot police attempting to keep the highway clear. In early March security guards at the National Assembly fired upon a group of Ngabe Bugle awaiting results of a dialogue on the mining law. Four Ngabes received minor injuries from pellets. In October the Naso and Ngabe Bugle protested against hydroelectric plant construction projects on or affecting indigenous land.

Societal and employment discrimination against indigenous persons was widespread. Employers frequently did not afford indigenous workers basic rights provided by law, such as a minimum wage, social security benefits, termination pay, and job security. Laborers in the country's sugar, coffee, and banana plantations (the majority of whom were indigenous persons) continued to work in overcrowded and unsanitary conditions. Employers were less likely to provide quality housing or food to indigenous migrant laborers, and indigenous children were much more likely to work long hours of farm labor than nonindigenous children (see section 7.d.). MITRADEL conducted limited oversight of working conditions in remote areas due to limited staff.

Education continued to be deficient in the indigenous comarcas, especially above the primary grades. There were not enough teachers due to the remoteness and inaccessibility of the areas. Many schools were multigrade, lacked running water, and were poorly constructed. Access to healthcare was still a significant problem in the indigenous comarcas, reflected in high infant mortality rates and malnutrition.

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

The law does not prohibit discrimination based on sexual orientation, and there was societal discrimination based on sexual orientation and gender identity, which often led to denial of employment opportunities. The PNP's regulations describe homosexual conduct as a "grave fault." Harassment of lesbian, gay, bisexual, and transgender (LGBT) persons by security forces was a major complaint of the New Men and Women of Panama (AHMNP), the country's main LGBT organization, but formal complaints were rare due to the perception that the reports were not taken seriously or that complaints could be used against claimants in the absence of nondiscrimination legislation. On June 30, gay rights advocates led the annual gay pride parade, and the minister of social development participated for the first time.

The Panamanian Association of Transgender People reported regular incidents in which security forces refused to accept complaints of harassment of transgender individuals. As of October the Ombudsman's Office received 10 abuse complaints from transsexuals. AHMNP received three complaints from transgender individuals detained in the airport over gender identity issues.

### **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. During the year the Ministry of Health and Social Security experienced extensive delays in reordering HIV/AIDS medications. Reports indicated that between 50 and 70 new patients were diagnosed with AIDS every month.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Bargain Collectively**

The law, including related regulations and statutory instruments, recognizes the right of private-sector workers to form and join unions of their choice subject to the union's registration with the government. Public servants may not form unions but may form associations that may bargain collectively on behalf of members.

The labor code provides private-sector workers the right to strike, and the Administrative Career Law grants public-sector employees the same right (when deemed legal and when essential positions are covered by the minimum percentage of workers as set out in the law). The right to strike does not apply in areas deemed vital to public welfare and security, including police and health workers. The law provides all private-sector and public-sector workers the right to bargain collectively, prohibits employer antiunion discrimination, and protects workers engaged in union activities from loss of employment or discriminatory transfers.

The law places several restrictions on these rights, including requiring citizenship to serve on a trade union executive board, requiring a minimum of 40 persons to form a private-sector union (either by company across trades or by trade across companies), and permitting only one trade union per business establishment. The International Labor Organization (ILO) continued to criticize the 40-person minimum, stating that was too large for workers wanting to form a union within a company. The government, private sector, and unions reiterated their support for keeping the figure at 40 individuals.

Similarly, 50 public servants are required to form a worker's association--a level the ILO considered too high. Member associations represent public-sector workers, such as doctors, nurses, firefighters, and administrative staff in government ministries. The law stipulates that there may not be more than one association in a public-sector institution and permits no more than one chapter per province.

The law provides that if the government does not respond to a registration application within 15 days, the union automatically gains legal recognition. Strikes must be supported by a majority of employees and related to improvement of working conditions, a collective bargaining agreement, or in support of another strike of workers on the same project (solidarity strike). In the event of a strike of administrative workers, at least 25 percent of the workforce must continue to provide minimum services, and 50 percent of the workers providing “essential public services” as defined by the law--such as transportation, firefighting, mail, hospitals and telecommunications--must continue to provide those services.

Strikes in essential transportation services are limited to those involving public passenger services. The law prohibits strikes for the Panama Canal Authority’s employees but allows unions to organize and bargain collectively on such issues as schedules and safety. It also provides for arbitration to resolve disputes. By law the National Federation of Public Servants (FENASEP), an umbrella federation of 21 public-sector worker associations, is not permitted to call strikes or negotiate collective bargaining agreements. Individual associations under FENASEP may negotiate on behalf of their members.

Supreme Court decisions recognize that collective agreements negotiated between employers and unorganized workers have legal status equivalent to collective bargaining agreements negotiated by unions. However, executive decrees provide that an employer may not enter into collective negotiations with nonunionized workers when a union exists and that a preexisting agreement with nonunionized workers cannot be used to refuse to negotiate with unionized workers. During the year, however, a teachers union located in Chiriqui Province reported that management of the school negotiated a collective agreement with the unorganized teachers, even though a union existed. The agreement was accepted by MITRADEL, despite the mentioned decrees and despite several complaints presented by the formal teachers union. At year’s end the case was under review in the court. MITRADEL’s *Manual of Labor Rights and Obligations* provides that unorganized workers may petition the ministry regarding labor-rights violations and may exercise the right to strike.

An executive decree protects employees from employer interference in labor rights, specifically including “employer-directed unions,” and mandates that unions be freely chosen by workers without penalty. Two other executive decrees strengthened the ability of workers to bargain collectively by clarifying the criteria for legitimate subcontracting and establishing an enforcement plan to protect the

rights of temporary workers, although no information was available on action taken under the plan during the year.

The government lacked sufficient mechanisms to ensure that laws prohibiting employer interference in unions and protecting workers from employer reprisals were adequately enforced. MITRADEL reported that inadequate personnel resources, case backlogs, and incomplete or inaccurate information in applications delayed the processing of new union registrations within the required time frame. MITRADEL did make some efforts during the year to increase inspections; it reported in September that it had conducted inspections of several companies to verify if companies were improperly using temporarily contracted workers to do permanent work and found that 30 percent of companies were not complying with legal requirements. MITRADEL noted that the government would notify the employers and may follow up with court cases, but no additional information was available on the status of these efforts at year's end.

In addition to the court system, the Conciliation Board of MITRADEL has the authority to resolve certain labor disagreements, such as internal union disputes, enforcement of the minimum wage, and some dismissal issues. The law allows arbitration by mutual consent, by employee request, or at the request of MITRADEL in case of a collective dispute in a public service company and allows either party to appeal if arbitration is mandated during a collective dispute in a public-service company. The separate Tripartite Conciliation Board has sole competency for disputes related to domestic employees, some dismissal issues, and claims of less than 1,500 balboas (\$1,500). For public-sector workers, the Board of Appeal and Conciliation in the Ministry of the Presidency hears and resolves complaints. Complaints not resolved by the board 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. Tribunal decisions are final.

Although private-sector unions widely exercised the right to organize and bargain collectively, antiunion discrimination, loss of employment, and discriminatory transfers occurred in practice. Union leaders continued to express concerns about government actions, such as auditing union budgets, which they characterized as interference and intimidation. They also asserted that automatic union registration did not occur in practice. Union leaders reported that the government harassed unions, including by making false accusations of corruption against current labor leaders, creating roadblocks to prevent the organization of workers, and criminalizing social protest. In December, Cruz Gomez, a leader in the

firefighters' workers' association, was fired shortly before a firefighter strike. The firing was considered illegal as he had certain protections as a workers' association leader. Gomez was subsequently reinstated and received full pay for the days he missed.

Employers in the retail industry frequently hired temporary workers to circumvent legal 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 two-week notice for discharges by dismissing some workers one week before a holiday. Employers frequently hired workers for one year and 11 months and subsequently laid them off to circumvent laws that make firing employees more difficult after two years of employment.

While in general labor leaders approved of the conciliation board, some lawyer groups criticized it as a route for circumventing the judiciary, leaving interpretation of labor laws to the discretion of persons who might lack expertise, and opening the labor dispute-resolution system to political pressure.

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

Law 79 took effect on January 1 and expressly prohibits all forms of forced labor of adults or children. The law establishes penalties of 15 to 20 years' imprisonment for forced labor involving movement (either cross-border or within the country), and six to 10 years' imprisonment for forced labor not involving movement.

During the year the government did not open any new investigations or prosecutions under the new law. In September the Trafficking in Persons Commission conducted an awareness-raising campaign about trafficking in persons, including with regard to forced labor.

There continued to be reports that some forced labor of adults occurred. There were anecdotal reports that Chinese citizens were forced to work in grocery stores and laundries in situations of debt bondage, as well as reports that Nicaraguan and Colombian women were subjected to domestic servitude.

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

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

The law prohibits the employment of children under age 14, although children who have not completed primary school may not begin work until age 15. Exceptions to the minimum age requirements can be made for children 12 and older to perform light farm work if it does not interfere with their school hours. However, the law does not set a limit on the total number of hours that these children may work in agriculture, or define what kinds of light work children may perform. The law prohibits 14- to 18-year-old children from engaging in potentially hazardous work and identifies such hazardous work to include work with electrical energy, explosives, or flammable, toxic, and radioactive substances; work underground and on railroads, airplanes, and boats; and work in nightclubs, bars, and casinos.

Youth under 16 years of age 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 p.m. and 8 a.m. Businesses that employ an underage child are subject to civil fines, while employers who endanger the physical or mental health of a child may face two to six years' imprisonment.

The law includes punishment of up to 12 years' imprisonment for anyone who recruits children under 18 or uses them to participate actively in armed hostilities.

MITRADEL generally enforced the law effectively in the formal sector, enforcing child labor provisions in response to complaints and ordering the termination of unauthorized employees, but not in the informal economy. During the year, MITRADEL identified 1,700 children and adolescents performing child labor. By law violators can be fined up to 700 balboas (\$700) for a first time violation; however, no information was available on whether any violators were fined during the year. As part of MITRADEL's program for the prevention and eradication of child labor, the Committee for the Eradication of Child Labor and the Protection of the Adolescent Worker (CETIPPAT) continued to provide outreach and grant scholarships to child laborers throughout the country to guarantee their access to education through the Institute for Training and Development of Human Resources, providing 1,483 grants during the year. MIDES, CETIPPAT, and the NGO Casa Esperanza continued a program in the comarca of the Ngabe Bugle, and the provinces of Santiago de Veraguas and La Chorrera that provided scholarships for working children so they could begin or return to primary school. The program also provided job training and literacy programs for their parents.

SENNIAF implemented programs to identify children engaged in the worst forms of child labor to remove them from exploitative situations and provide them services. MITRADEL offered trainings on the topic of child labor and lessons learned to various stakeholders.

According to a 2010 child labor survey by the government and ILO, approximately 60,700 children and adolescents (7 percent of the overall population in the five- to 17-year-old age group) were found working. Sixty-nine percent of working children also attended school. Seventy-seven percent of working children and adolescents said they worked fewer than 25 hours per week, and 57 percent worked with their families.

Child labor violations occurred most frequently in rural areas in agriculture and fishing, especially during the harvest of melons, tomatoes, onions, coffee, and to a lesser extent, sugarcane. Children generally worked five to eight hours per day in these activities. Farm owners often paid according to the amount harvested, leading many laborers to bring their young children to the fields to help. The problem of child labor in agricultural areas fell most heavily on indigenous families, who often migrated from their isolated communities in search of paid work and whose frequent migrations interrupted schooling. Child labor also occurred in domestic work and other areas of the informal sector, including selling goods, shining shoes, washing cars, and assisting bus drivers.

According to Casa Esperanza, child labor increased in agricultural areas in the central provinces and was identified in new sectors in Panama City, Colon, and David. In Colon children scavenged in the ocean for metal and other items from boats to sell. In David children were found selling flowers and CDs/DVDs in the streets.

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

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

At year's end the minimum wage ranged from 1.2222 to 2.3636 balboas (\$1.2222 to \$2.3636) per hour, depending on region and sector. Working 40 hours per week, 50 weeks a year, and earning at the minimum-wage median, a worker would earn between 211 and 409 balboas (\$211 and \$409) per month. The poverty line in rural areas was considered to be 98 balboas (\$98), while it was 131 balboas (\$131) in urban areas. Food and the use of housing facilities were considered part of the

salary for some workers, such as domestic and agricultural workers. Salaries for domestic workers ranged from 175 to 200 balboas (\$175 to \$200) per month. The agricultural and construction sectors received the lowest and highest minimum wages, respectively.

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. Workers have the right to 30 days' paid vacation for every 11 months of continuous work, including those who do not work full time. MITRADEL is responsible for setting health and safety standards. The labor code requires employers to provide a safe workplace environment, including the provision of protective clothing and equipment for workers.

MITRADEL generally enforced these standards in the formal sector. There were 213 labor inspectors, including 110 general labor inspectors (of whom eight were child labor inspectors based in Panama City) and 103 inspectors (also referred to as safety officers) in the construction industry. The construction industry paid the salaries of construction industry inspectors, although the inspectors remained MITRADEL employees. MITRADEL conducted 16,317 labor inspections through October. Allowable fines for violations are low. During the year, however, the government applied fines according to the number of workers affected, resulting in larger overall fines. Through July, MITRADEL issued 982 fines totaling 601,000 balboas (\$601,000). In April MITRADEL fined 40 companies in Chiriqui Province, primarily for failure to pay minimum wage.

Inspectors from MITRADEL and the occupational health section of the Social Security Administration reported that they conducted periodic inspections of hazardous employment sites. The law requires that the resident engineer and a MITRADEL construction industry inspector (also referred to as safety officers) remain on construction sites, establishes fines for noncompliance, and identifies a tripartite group composed of the Chamber of Construction, construction union Suntracs, and MITRADEL to regulate adherence.

Most workers formally employed in urban areas earned the minimum wage or more. Approximately 40 percent of the working population worked in the large informal sector, and many earned well below the minimum wage, particularly in most rural areas, where unskilled laborers--including street vendors, and those involved in forestry, fishing, and handicraft production--earned from three to six balboas (\$3.00 to \$6.00) per day without benefits. MITRADEL was less likely to

enforce labor laws in most rural areas (see section 6, Indigenous People). During the year the government ran a campaign to encourage workers in the informal sector to pay social security.

Seventeen construction workers, including one 15-year-old, died due to accidents suffered on the job in the first seven months of the year. Some construction workers and their employers were occasionally lax about conforming to basic safety measures, frequently due to their perception that it reduced productivity. Equipment was often outdated, broken, or lacking safety devices, due in large part to a fear that the replacement cost would be prohibitive. Construction workers and safety inspectors needed training to enable them to use new construction technologies.