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2010 Human Rights Report: Panama

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

April 8, 2011

Panama is a multiparty constitutional democracy with an estimated population of 3.4 million. In May 2009 voters chose Ricardo A. Martinelli Berrocal as president in national elections considered generally free and fair by international and domestic observers. Security forces reported to civilian authorities.

Human rights problems included the use of excessive force by police during protests, which was investigated; harsh prison conditions; prolonged pretrial detention; corruption, ineffectiveness, and alleged political manipulation of the judicial system; political pressure on the media; corruption in the executive and legislative branches as well as in the security forces; discrimination and violence against women; trafficking in persons; substantial discrimination against individuals with disabilities; continued marginalized participation of indigenous communities in decisions that affected them; widespread societal and employment discrimination against indigenous persons; societal discrimination based on sexual orientation and gender identity; discrimination against persons with HIV/AIDS; and violation of some worker rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, on July 9, workers Antonio Smith and Fernan Castillo died in Changuinola, Bocas del Toro Province, during violence associated with protests over a controversial, multifaceted law (Law 30) and with security-force actions. On July 10, the UN High Commissioner for Human Rights (UNCHR) regional representative reminded the government that "the use of force and firearms by officers responsible for upholding the law must be restricted and exceptional." Mid-July initial reports by the nongovernmental organization (NGO) Human Rights Everywhere and the Office of the Ombudsman signaled that the failure by police to adhere to basic regulations for controlling protesters was a factor contributing to the killings.

A government-appointed independent investigatory commission reported in October that the July 9 violence injured 772 individuals (two were permanently blinded and more than 50 suffered some vision loss), including 56 police officers. The report attributed the two confirmed deaths to shootings from a distance of less than 16 yards and attributed two other deaths (Ruben Marbin Becker Abrego and Liandro Santos Breabu) to an inability to transport persons injured by police tear gas to a hospital. There were no arrests by year's end, and authorities were investigating other deaths to determine whether they were also attributable to police actions.

In continuing investigations of 47 cases of killing or disappearance during the 1968-89 military regime, cases were under consideration or underway at year's end.

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 December the Supreme Court acceded to the 2009 request by the Attorney General's Office and the prosecutor to try former minister of government and justice Daniel Delgado for a 1971 killing. By year's end a court date was not set.

b. Disappearance

There were no reports of politically motivated disappearances. However, during the mid-July violence in Bocas del Toro Province (see section 1.a.), Valentin Palacios reportedly disappeared. On August 15, he reappeared in good health at a hospital in Almirante, Bocas del Toro Province, but an explanation for his disappearance remained unclear at year's end.

Contractual and procedural issues continued to delay the DNA testing of the remains of four persons, including disappeared priest Hector Gallego, that were sent abroad in 2008 and for whose testing the Public Ministry requested permission from family members in 2009. In July President Martinelli announced funding to help conduct DNA tests abroad on the remains located at the Legal Medical Institute of approximately 30 other individuals believed disappeared during the military regime, but as of year's end no funds were disbursed.

In April the Second Superior Court agreed to try former National Guard members Melbourne Walker, Manuel Antonio Noriega, Moises Correa, Pablo Garrido, Lucino Miranda, Pedro del Cid, Gabriel Correa, and Aquilino Sieiro for the disappearance and killing of Heliodoro Portugal in 1970 during the military dictatorship (see section 1.e., Regional Human Rights Court Decisions).

In March the Prosecutor's Office opened an investigation of Panamanian National Police (PNP) Director Gustavo Perez de la Ossa for alleged human rights abuses during a 1989 military operation. Specifically, media reports claimed that the Defense Force dishonorably discharged then lieutenant Perez de la Ossa in 1990 for having participated the previous year in taking foreign civilians hostage to exchange them for Panama's military personnel captured during a foreign invasion of the country. The media reports had not been confirmed by year's end, and the investigation remained open.

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.

As of September the PNP Directorate of Professional Responsibility (DRP) had not opened any cases alleging abuse of prison inmates by prison guards, compared with two such investigations in 2009 (both of which remained open at year's end).

There were no known developments in the case of two persons in custody and charged with involvement in the 2007 killing of an inmate and the injuring of another in the Basilio Lakas detention facility, and none were expected.

Prison and Detention Center Conditions

The Ministry of Government (formerly the Ministry of Government and Justice) oversees all prisons in the country. 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. Additionally, there was little ventilation or lighting. One of the main prisoner complaints was the lack of access to medical care.

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As of September the prison system, with an official capacity of 7,187 persons, held 12,293 prisoners. Pretrial detainees shared cells with convicted prisoners due to space constraints. In September the government released 388 inmates who had served two-thirds of their sentences in an attempt to alleviate overcrowding.

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 the lack of guards to watch ill detainees; authorities transferred patients to public clinics instead.

PNP officers provided perimeter security at all prisons but generally lacked training for prison duty. At La Joya and La Joyita prisons, PNP officers also provided internal security, although civilian custodians were also present. In all prisons, inmates complained of limited time outside cells and limited access to family visits. 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 were generally better than those for men, they remained characterized by overcrowding, poor medical care, and lack of basic supplies for personal hygiene.

Juvenile pretrial and custodial detention centers throughout the country did not have resources to provide education or adequate supervision and suffered from overcrowding and poor conditions. The main male facility in the country, in Panama City, held more than twice the number of detainees for which it was designed, and a diplomatic representative observed inhumane conditions there during an October visit. Lack of funding led to cancellation of virtually all rehabilitative (workshops and job-training programs) and recreational activities; that and a severe shortage of custodial guards resulted in the majority of detainees spending nearly all their time in cells.

The Ombudsman's Office intervened in cases involving the prison system by negotiating and petitioning on behalf of prisoners and receiving complaints about prison conditions. The office reportedly received six complaints by prisoners during the year: one for verbal abuse by a PNP prison guard, four for physical abuse by PNP officers in the course of prisoner detention, and one for physical abuse by a civilian custodian. One of the four physical-abuse cases was under investigation by the Public Ministry at year's end.

Prisoners were able to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, but authorities did not document the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions.

The Ombudsman's Office conducted weekly prison visits, and the government generally did not monitor its meetings with prisoners. However, authorities repeatedly denied access to human rights organizations, particularly after one organization filed two lawsuits against the Ministry of Government on behalf of prisoners. By year's end the lawsuit regarding a lack of potable water was pending, while the court had dismissed the lawsuit about a lack of access to fresh air and sunlight.

Prisoners at some facilities had reasonable access to visitors and were permitted religious observance; however, this was not the situation at high-security facilities, such as La Joya and La Joyita, where prisoners had very little time outside their cells.

An ombudsman may serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; to address the status and circumstances of the confinement of juvenile offenders; and to improve pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense.

Ground was broken in August for a new mega-prison that would hold 5,500 male and female prisoners in separate facilities. During a mid-November prison reform conference, Minister of Government Roxanna Mendez announced that the mega-prison plan had been modified to set out four separate facilities. More than 160 new corrections officers were hired during the year, although 38 reportedly resigned due to a low monthly salary of 400 balboas (\$400).

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.

On July 10, media reported that authorities arrested at least 50 union leaders and members of civil society in Panama City as they emerged from a meeting at Hotel Soloy during which they had agreed to launch a national strike to protest Law 30. Authorities also issued arrest warrants for 17 union leaders and a former presidential candidate who participated in the meeting. Authorities released those arrested that same day and lifted the arrest warrants on July 13 without taking any further legal action.

Role of the Police and Security Apparatus

Civilian authorities in the new Ministry of Public Security (formed on April 1 from the Ministry of Government and Justice) maintained effective control over all police, investigative, border, air, and maritime forces in the country, which has no regular military forces. The PNP remains responsible for internal law enforcement and public order. The government has effective mechanisms to investigate and punish abuse and corruption, and there were no reports of impunity involving security forces during the year.

Law 18 includes guidelines for the use of force, including deadly force; requires that police respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhumane or degrading behavior. On October 24, the National Assembly modified Law 18 so that, in its changed form as Law 74, police accused of using excessive force may not be detained prior to trial, suspended, nor face other internal discipline unless and until convicted.

From January to September, the PNP's DRP opened 1,040 disciplinary proceedings against police, including 145 for inappropriate conduct, 12 for physical aggression, and 220 for abuse of authority. Also as of September, there were 80 incidents reported of domestic violence by police. Through September the Ombudsman's Office received 37 complaints against police for abuse of authority. Investigations in most of these cases were ongoing at year's end, although authorities dismissed 50 PNP officers and placed many others on "semipermanent vacation."

In September a jury found two PNP agents not guilty of killing a construction worker during a 2007 demonstration against poor labor conditions.

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 for a limited number of crimes. 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. By law 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. However, in practice inmates were regularly imprisoned for more than a year before a judge's pretrial hearing, and their pretrial detention exceeded the maximum sentence for the alleged crime. Such extended pretrial detention continued to be a serious problem, largely due to judicial inefficiency and the use of a written inquisitorial system. According to government statistics, as of August, 63 percent of prisoners were pretrial detainees. In Veraguas Province, courts initiated a system that greatly decreased case backlog in preparation for introduction of the accusatorial system.

e. Denial of Fair Public Trial

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

The Directorate of Judicial Investigation, under PNP administrative control, provides investigative services to the judicial system.

In August the attorney general was officially removed from office after a trial for "abuse of authority" that human rights groups claimed was politically motivated.

At the local level, mayors appoint "corregidores" (administrative judges), 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. Defendants lacked adequate procedural safeguards. Corregidores usually had no legal training or other pertinent expertise. In actuality appeal procedures were generally nonexistent. Affluent defendants often paid fines while poorer defendants were incarcerated.

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.

In August 2009 the government postponed until September 2011 implementation of a new Code of Criminal Procedure designed to transition from an inquisitorial to an accusatory system of justice. The government budget contained 38 million balboas (\$38 million) for implementation.

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 amplifying 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 70 percent of inmates used them. Many public defenders, however, were appointed late in an investigation, after the prosecutor had evaluated most evidence and decided to recommend trial. Public-defender caseloads remained very high, averaging 395 cases per attorney per year. The court system has maintained a backlog of approximately 45 percent of cases since 2004, which was also a large contributing factor to prison overcrowding.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Court Decisions

In its May 28 order in the case concerning the disappearance of Heliodoro Portugal, the Inter-American Court of Human Rights ruled that the government fully complied with requirements for widespread circulation of the 2008 court judgment, for payment of damages (254,000 balboas (\$254,000)) and costs, and for public acknowledgement of the government's responsibilities. Compliance remained pending at year's end with requirements for immediate medical and psychological care of Portugal family members, for enactment within a reasonable time of legal definitions of the offenses of forced disappearance and torture, and for investigation of the Portugal disappearance plus prosecution and punishment of those responsible. In April judicial authorities agreed to try the eight former National Guard members allegedly involved in the disappearance and killing of Portugal (see section 1.b.).

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 for human rights violations. 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; however, 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, but there was no confirmation.

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 individuals generally enjoyed freedom of expression. However, during the year the government used a variety of means to impede freedom of expression and attempt to silence criticism of its actions.

The independent media were active and expressed a variety of views without restriction. 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 government remained pending against many journalists. The Inter-American Commission on Human Rights (IACHR), the Inter-American Press Association (IAPA), the NGO 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. NGOs asserted that these provisions threatened freedom of speech and press.

Journalists alleged that members of the government, including President Martinelli and Secretary of Communication Alfredo Prieto, telephoned them to complain about stories printed or aired concerning the government. Journalists asserted that those calls had a chilling effect, especially on reporters, resulting in frequent self-censorship. There was at least one report of threats against a leading journalist by a member of the government.

In May the director of *El Siglo* newspaper, Jean Marcel Chery, filed a complaint with the IACHR that alleged the government had launched a campaign of intimidation after *El Siglo* ran a story on government failure to collect garbage in poor Panama City neighborhoods. Transcripts of text messages between Chery and Communications Secretary Prieto were published. In the complaint Chery also accused Prieto of having commentators attack him on Prieto's privately owned television station. The IACHR was evaluating the complaint at year's end.

Also in May the Supreme Court of Justice fined the national newspaper of record, *La Prensa*, 300,000 balboas (\$300,000) for "moral damages" after it reported the 2005 firing and subsequent reinstatement of a prosecutor. The story had been covered by six other papers, none of which were cited in the damages suit. Leading journalists condemned the ruling as "absurd" and warned of intimidation. *La Prensa's* appeal was pending at year's end.

In July a group of leading media figures met with the president and complained about the government's behavior toward journalists.

In early July authorities detained *La Prensa* journalist Paco Gomez Nadal, a foreign national with a valid permit to work in the country who was also a human rights activist from the NGO Human Rights Everywhere and an editorial adviser and contributor to foreign publications, as he attempted to board a flight to another country. In the ensuing controversy, the government made several contradictory public claims about its reasons, all involving alleged tax and immigration irregularities; reportedly told him that he could leave if he promised not to return; but released him after several hours. At year's end he continued to reside in the country and publish his articles critical of the government.

Controversy continued regarding the decriminalization of defamation and slander. In late September Acting Attorney General Giuseppe Bonissi filed an opinion with the Supreme Court that stated the 2008 reform that decriminalized defamation or slander of high-ranking public officials was unconstitutional. On the other hand, many civil society groups advocated even broader decriminalization of slander.

Also in late September, the Second Superior Court convicted television journalists Sabrina Bacal and Justino Gonzalez of criminal slander, banned them from professional work for one year, and ordered them each to pay a fine of 3,650 balboas (\$3,650) or serve one year in prison--notwithstanding that two lower courts had dismissed the same charges earlier in the year. The appellate court's decision sparked protests and public criticism of the government over its possible lack of compliance with international standards regarding freedom of expression. In early October the Ethics Committee of the National Council for Journalism requested that the Inter-American Court of Human Rights review the case. However, since there were case-related constitutional issues awaiting a Supreme Court decision, the Inter-American Court had not

accepted the case by year's end. Meanwhile, on October 7, a full pardon of both journalists by President Martinelli took effect.

In mid-November Guillermo Adames, president of the National Council for Journalism, claimed that the government retaliated for his criticism of its policy toward freedom of expression by sending tax inspectors to his radio station, Omega Stereo. The council shortly thereafter declared a "permanent state of alert" because of what it described as a "government attack against freedom of speech."

In April 2009 a judge sentenced the director of *El Siglo*, Jean Marcel Chery, and two journalists to two years in prison for trespassing while reporting in 2001 on corruption allegedly involving Supreme Court Justice Winston Spadafora. Local journalists and the IAPA criticized the judgment as judicial harassment. Chery appealed, but the court upheld the earlier ruling. At year's end the case remained at the Superior Court level without a final judgment. However, since the law requires commutation of prison sentences into fines in all cases where the final ruling has not been made within two years, Chery and the two journalists were not imprisoned.

The appeal by *La Prensa's* Rafael Berrocal of a September 2009 conviction for calumny and libel against a former vice president of the country, since deceased, remained pending at year's end. The court had sentenced Berrocal to 200 days in prison or a fine of 400 balboas (\$400).

The impact of the 2008 Supreme Court ruling that overturned former president Moscoso's pardons of several journalists convicted of libel remained uncertain at year's end, because the court returned the cases to their "original state," which required clarification. Meanwhile, in October police detained one of the journalists, due to a criminal slander case pending from 2001, but released him the same day.

At year's end an appeal remained pending of a 2008 judicial order seizing the assets of the newspaper *El Periodico*, which subsequently went out of business.

In June journalist Carlos Nunez Lopez served 18 days of a one-year sentence in prison in connection with a 2007 criminal conviction for defaming a property owner in a 2004 *La Cronica* story about environmental damage in Bocas del Toro Province.

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. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that 28 percent of inhabitants used the Internet in 2009, an increase of 5 percent from 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 freedoms of assembly and association, and the government generally respected these rights in practice. 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.

Several labor leaders claimed that they received anonymous threatening phone calls due to their participation in meetings held abroad on July 20 with foreign officials and legislators to discuss concerns related to Law 30 and a pending bilateral free trade agreement.

c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

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 in practice. 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 region bordering Colombia under the THP regime, who could only leave those locations with special temporary 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 law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The 1998 Executive Decree 23 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 actuality the government did not enforce the two-month time limit. A Colombian THP group has continued to live in the Darien region for 14 years, notwithstanding a 2008 law that, until November 9, 2010, provided a legal mechanism by which all those persons under refugee status who had been in the country for 10 years or more were enabled to apply for permanent residence.

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, however, 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 could be threatened.

Authorities did not provide asylum seekers and refugees 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, but the government did not permit displaced Colombians to work or move outside of their assigned villages.

There were approximately 1,213 recognized refugees in the country. During the year 454 persons approached the government seeking refugee status, according to ONPAR. The law requires that the government's National Commission for the Protection of Refugees, convened by ONPAR, meet at least once every three months to determine the status of persons seeking refugee status. The commission met four times during the year, reviewed 140 cases, and granted

refugee status to 13 persons. Local NGOs claimed that the government arbitrarily denied admission to the refugee-status determination process and often refused asylum-seeker requests on the basis that they failed to prove past persecution or a well-founded fear of future persecution.

For most of the year, the law enacted in 2008 allowed persons who had been recognized as refugees for 10 years or more to apply for permanent residence. By November 9, when that law expired, 300 applicants had requested this status, and the government had approved 277 such cases.

Persons under THP included 899 displaced persons, mainly of Afro-Colombian heritage, and 289 of their dependents, some of whom were citizens born in Panama of marriages between displaced Colombians and Panamanian citizens. Seventy individuals were from the Embera indigenous group.

The government reported an increase in migration of persons from outside the region, primarily from Asia and East Africa, who transited the country en route to North America. The government regularly detained undocumented migrants from this population and provided those individuals who requested international protection with access to the asylum process; however, nearly all such individuals abandoned their applications and continued on their migration route before a refugee-status determination was completed. The UNHCR estimated that 70 such persons applied for asylum during the year.

The UNHCR classified approximately 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. The 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 specified categories of elective office.

Elections and Political Participation

In May 2009 voters chose Ricardo A. Martinelli Berrocal, the opposition Alliance for Change candidate, as president in national elections considered generally free and fair by independent observers. More than two million citizens voted in elections for president, vice president, legislators, mayors, and local representatives, including citizens residing overseas who had registered via the Internet and voted by mail-in ballot.

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 presidency and National Assembly, provides for the autonomy of the National Electoral Tribunal, and limits the immunity of representatives in the National Assembly by permitting the Supreme Court to prosecute criminal cases against representatives.

On October 24, the National Electoral Tribunal organized, regulated, and monitored the Ngobe-Bugle community's elections of local, regional, and general congress delegates. The elections were controversial (community leaders claimed the tribunal sought to deprive them of their autonomy), community leaders encouraged a boycott, and participation was only 20 to 30 percent of registered voters. NGO Human Rights Everywhere observers described the elections as "confusing" and ill-timed and recommended consultations between the tribunal and traditional authorities to resolve

matters. Although the Ngobe-Bugle community stated they would not validate the election results, their elected officials did receive and accept credentials from the government.

Women held six seats in the 71-member legislature and five 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 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government sometimes implemented these laws. However, there were also instances when 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, and World Bank indicators reflected that evaluation. Anticorruption mechanisms such as asset forfeiture, whistleblower and witness protection, plea bargaining, and conflict-of-interest rules existed.

Corruption among police officers continued to be a problem, although the Ministry of Public Security (MSP) improved accountability within the security services. The PNP worked with the MSP to reform the Directorate of Professional Responsibility (DRP) to create a more transparent method for handling traditional internal affairs problems for all security services. Proposed changes included incorporation of a semi-independent civilian staff to monitor DRP investigations. The MSP opened three cases against PNP officers for embezzlement and one for corruption during the year, all of which continued under investigation at year's end.

In July authorities fired a number of senior National Aero-Naval Service officers and several senior PNP officers, reportedly due to involvement in narcotics-related crime.

In September authorities opened an investigation into allegations of high-level immigration officials involved in a ring smuggling Chinese citizens. Several officials were fired, and several more remained under investigation at year's end.

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. In midyear a commission formed by civil-society members and members of the judiciary began meeting to discuss legislative changes that would address this issue, but by year's end there were no known developments.

In February authorities released former minister of education Belgis Castro on bail of 150,000 balboas (\$150,000) while August 2009 charges of embezzlement concerning contracts awaited adjudication.

In the case of six Ministry of Education employees charged in 2008 with embezzling 1.5 million balboas (\$1.5 million), the Third Criminal Court of the Special District of San Miguelito postponed the May 5 preliminary hearing, returned the file to the First Anticorruption Prosecutor's Office for expansion, and did not set a new hearing date.

Despite the government-instituted Internet-based procurement system that required publication of all proposed government purchases, evaluations of proposals, monitoring of the procurement process, and advance public notice of intended procurement, there were many reports of government purchases made via direct contracts that circumvented the system during the year. The media reported up to one billion balboas (\$1 billion) in approximately 1,300 direct contracts.

Public officials were subject to financial disclosure laws, but this information was reported to the government and not 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 may appeal access decisions to the Supreme Court.

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 ombudsman, elected by the National Assembly, had moral but not legal authority, enjoyed the government's cooperation, and operated without government or party interference. Between January and September, the Ombudsman Office received 578 complaints. During the year the office issued reports on the violence associated with protests in Bocas del Toro Province (see section 1.a.) and on environmental contamination and prison conditions, with recommendations to which the government had not responded by year's end.

In accordance with an October 2009 law to improve legislative efficiency, the National Assembly merged its Human Rights Committee with the Government Affairs Committee. At year's end an effort was underway to re-separate the committees.

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 allegedly did not enforce these prohibitions effectively.

Women

The law criminalizes rape, including spousal rape, with prison terms of five to 10 years and eight to 10 years under aggravating circumstances (use of a weapon), and the government enforced the law effectively. Rapes constituted the majority of sexual crimes investigated by the PNP, and its Directorate of Judicial Investigation reported 481 cases of rape in the context of domestic violence for the period January to September.

Domestic violence against women continued to be a serious problem, and the number of reported cases increased during the year. Although 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, there were few convictions for domestic violence, except for killing in the course of domestic abuse. In October the NGO Queen Sofia Center reported a high rate of domestic femicide in the country. The PNP's Directorate of Judicial Investigation reported 2,397 cases of domestic violence for the period January to June, and 46 women died as a result of domestic violence during the period January to October.

The government-operated shelter in Panama City for victims of domestic abuse--the only one in the country--offered social, psychological, medical, and legal services.

The law prohibits sexual harassment in cases of established employer/employee relations in the private sector and in teacher/student relations; violators face 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 their children, and had the information and means to do so free from discrimination. The UN estimated the country's maternal mortality ratio in 2008 as 71 deaths per 100,000 live births. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available, except in comarcas (provincial-level indigenous regions), where it was limited, according to the American Red Cross. The law limits sterilization to women who are 33 years of age or older, have at least five children, and are of a low socioeconomic level (undefined). Various groups considered the law discriminatory, and legislation remained pending at year's end that would allow women to seek sterilization regardless of age or number of children but not regardless of socioeconomic level. 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 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 enforce the law effectively.

The law mandates equal pay for men and women in equivalent jobs, but according to a 2010 World Economic Forum survey, women received approximately 41 percent less on average than men for comparable work. 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 sometimes had difficulty in obtaining birth registration certificates.

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. From January to the beginning of December, the hotline received 1,781 calls reporting child abuse (242 other cases were reported in person at one of the Integral Guidance and Attention Centers), 294 reports of abandonment, and 581 reports of neglect. 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. The independent National Secretariat for Children, Adolescents, and the Family (SENNIAF) was created to coordinate, execute, and follow-up all policies designed to protect the rights of children and adolescents.

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.

The law prohibits consensual sex with a girl aged 14 to 18 and provides for 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 and also criminalizes child pornography, for which it also provides the same imprisonment penalty.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance with that convention at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

There was a Jewish population of approximately 10,000 persons. There were no reports of anti-Semitic acts.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination based on physical or mental disability; however, 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 employment, education, access to health care, and the provision of 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.

On August 2, the National Assembly passed a law mandating that the National Electoral Tribunal register citizen disabilities as well as blood type and allergies on the citizen identification card to be able to deal with situations in which an individual collapses or loses consciousness. The law also requires the National Transportation Authority to include the same information on individual driver's licenses.

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.

MIDES opened a new educational resource center for blind children--the first of its kind in the country--in September to provide access to books, maps, and other documents in Braille. In October the ministry also translated into Braille a guide to the Labor Code so that blind workers could read about their labor rights. The law provides that a minimum of 2 percent of workers at a given company should 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. During the period January to July, the Ombudsman's Office received 26 complaints of government violations involving the labor rights of persons with disabilities; information was not available on the resolution of those complaints.

In October the Social Security Administration announced a new system enabling deaf patients to make medical appointments via the Internet.

The government disbursed 50 balboas (\$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 and language differences and immigrant 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 country's 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, and many blacks remained clustered in the economically depressed areas of Colon Province and Panama City. These areas 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 regarding entry to public or commercial establishments; however, cases of discrimination were difficult to prove in practice, 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 resumes, which the employers used to discriminate against persons based on appearance.

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 continued to be marginalized, and conflict emerged when the internal regulations of indigenous groups conflicted with the country's laws or constitution (see section 3, Elections and Political Participation). There were legally designated comarcas governed by traditional community leaders for five of the country's seven indigenous groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna communities. The government did not recognize comarcas for the Bri-Bri and Naso communities.

The Ministry of Government maintained an Office of Indigenous Policy. Although the country's law is the ultimate authority on indigenous reserves, local groups maintained considerable autonomy. For example, the government recognized traditional Kuna marriage rites as the equivalent of a civil ceremony.

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. Outside-settler encroachment continued to threaten indigenous comarcas, which were not well demarcated.

On June 3, the Naso community petitioned the IACHR for urgent interim measures to protect the integrity of its land and to open negotiations with the government on economic development projects. The community claimed discrimination, because the government refused to recognize its territorial rights, and irreparable damage, because hydropower projects were being implemented. By year's end there was no further information available on this situation.

In July a Compliance Advisor Office ombudsman team from the International Finance Corporation of the World Bank Group visited the country and obtained key-stakeholder agreement to address Chiriqui Province community-organization concerns about the Pando Montelirio hydroelectric power plant project through a facilitated dialogue process. The social and environmental concerns listed in the community organizations' complaint filed on January 27 included lack of a participative consultative process and endangerment of local communities, fish and water resources, plants, and the natural landscape.

On May 28, the Inter-American Court of Human Rights denied the IACHR's January 19 request for provisional measures in the case of four Ngobe-Bugle communities (Charco La Pava, Valle del Rey, Guayabal, and Changuinola Arriba) that in

2008 had initiated proceedings before the IACHR concerning the government's issuance of concessions for the exploration and exploitation of natural resources along the Changuinola River, Bocas del Toro Province. The court took the opportunity to note that a crucial factor for IACHR consideration was whether the restriction of community property rights implied denial of traditions and customs in a way that endangered group subsistence and also to note the obligation of governments to guarantee community participation in consultations in good faith through culturally adequate procedures. At year's end IACHR consideration continued.

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, and MITRADEL conducted limited oversight of working conditions in remote areas due to limited staff. 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 their children were much more likely to work long hours of heavy farm labor than nonindigenous children (see section 7.d.).

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

The law does not prohibit discrimination based on sexual orientation.

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."

In July the advocacy group New Men and Women of Panama issued a report that documented incidents between April and June of discrimination against lesbians involved in child-custody cases and of PNP agents who refused to aid a stabbed transsexual who was a minor or take him to the hospital. No known investigations were pending at year's end.

In June the advocacy group organized an annual gay pride parade that the government authorized. There was no police protection for parade participants, but no incidents were reported.

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. The only local NGO dedicated to HIV/AIDS patients, the Foundation for the Welfare and Dignity of People Affected by HIV/AIDS (PROBIDSIDA), received a government subsidy to help defray its payroll and mortgage expenses. During the year PROBIDSIDA inaugurated its first clinical laboratory for conducting AIDS diagnostic tests. Pregnant women and teenagers were tested there at no cost, while others paid a nominal fee.

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, subject to the union's registration with the government. The law requires a minimum of 40 persons to form a private-sector union (either by company across trades or by trade across companies) but permits only one trade union per business establishment. The ILO Committee of Experts (COE) continued to criticize both provisions as violations of worker rights to organize, stating that the 40-person minimum was too high when workers want to form a union within a company. The government, private sector, and unions supported keeping the figure at 40 individuals.

The constitution requires Panamanian citizenship to serve on a trade union executive board. The ILO observed that this requirement could deprive some workers of the right to elect their representatives in full freedom and noted, for example, that migrant workers could be adversely affected in sectors in which they accounted for a significant share of the membership. According to labor officials, approximately 17 percent of the workforce was unionized.

The law provides that if the government does not respond to a registration application within 15 days, the union automatically gains legal recognition; however, union officials 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 law prohibits public servants from forming unions but allows them to form associations that may bargain collectively on behalf of members. However, the law stipulates that there may not be more than one association in a public-sector institution and that, while associations may have provincial or regional chapters, no more than one chapter per province is permitted. The ILO noted that these provisions should be amended. Member associations represent public-sector workers, such as doctors, nurses, firefighters, and administrative staff in government ministries. A 2009 law raised the minimum number of public servants required to form a worker's association from 40 to 50--a level considered too high by the ILO COE.

Workers exercised their right to conduct their activities without government interference, including the right to strike. However, union leaders expressed concerns about government actions, such as auditing union budgets, which they characterized as intimidation.

The law provides private-sector workers with the right to strike but requires that the strike be supported by a majority of employees. The law prohibits strikes that are unrelated to a collective bargaining agreement. In practice and in law, restrictions on collective bargaining in enterprises that have been in existence for less than two years limited the right to strike in those enterprises.

The law grants public-sector employees a limited right to strike, except for those in areas vital to public welfare and security, including police and health workers. 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. The ILO COE noted that FENASEP reported in November 2009 that the government eliminated its standing as a worker organization, thereby denying it membership and participation rights in the National Organization of Organized Workers and access to public funding.

Nevertheless individual associations under FENASEP may negotiate on behalf of their members. In the event of a strike, at least 25 percent of the workforce must continue to provide minimum services in the case of administrative workers, and 50 percent of the workers providing "essential public services"--such as transportation, firefighting, mail, and telecommunications--must continue to provide those services. The ILO COE criticized the government's definition of "essential services" as overly broad and also noted concerns regarding legal provisions that permit compulsory arbitration at one party's request. The law allows arbitration by mutual consent, by employee request, or during 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 ILO COE expressed continued concerns that the government had not amended the law to permit strikes by federations. 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 export

processing zones. Executive decrees issued in 2009 and during the year 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 bargain collectively on such issues as schedules and safety and provides for arbitration to resolve disputes. The government is a party to the ILO Maritime Labor Convention. In April MITRADEL issued a document that reaffirmed the Labor Code's application to maritime laborers, directed the ministry to ensure the existence of mechanisms for maritime workers to file complaints, and required that workers be informed of their rights.

Controversial Law 30, which revised aspects of the Labor Code and eight other laws in June, sparked opposition from labor leaders among others as well as widespread protests and a strike by the Sitrabana union in early July in Bocas del Toro Province. A government-appointed investigatory commission attributed two deaths to police actions, and authorities initiated investigations into other deaths (see sections 1.a., 1.d., and 2.b.).

The Dialogue Table formed by the government to decide how to revise Law 30, which included union participation, agreed in October to divide the law into six individual bills with reworked provisions acceptable to all the participants. Notable changes to labor provisions made by Law 68 in October included the following: reaffirmation of the requirement for employers to deduct union dues; permission for owner access to an on-strike work site for maintenance purposes; reaffirmation of the right of the two largest union federations, the National Council of Organized Workers and the National Confederation of Independent Unions, to choose attendees to international workers' conferences; and authorization for pretrial detention for allegedly improper actions taken by police officers in controlling public protests.

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, with some exceptions. Enterprises that have been in existence for less than two years as well as those in Export Processing Zones (EPZs) are not obligated to bargain collectively. In June, Law 29 created a special economic area in Baru region. For specific investments in Baru under that law, employers are not required to bargain collectively for the first six years of operation.

Private-sector unions widely exercised the right to organize and bargain collectively. In addition to the court system, the Conciliation Board of MITRADEL has the authority to resolve some labor disputes, such as internal union disputes, enforcement of the minimum wage, and some dismissal issues. 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). While labor leaders approved of the conciliation board, some lawyer groups criticized it as a route for circumventing the judiciary, for leaving interpretation of labor laws to the discretion of persons who might lack expertise, and for opening the labor dispute-resolution system to political pressure.

For public-sector workers, the Board of Appeal and Conciliation in the Ministry of the Presidency hears and resolves complaints. 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. Tribunal decisions are final.

Executive decrees issued in 2009 and 2010 provide that an employer may not enter into collective negotiations with nonunionized workers when a union exists. However, these decrees have not been tested in court. Based on previous practice, MITRADEL's *Manual of Labor Rights and Obligations* provides that unorganized workers may petition MITRADEL regarding labor-rights violations and may exercise the right to strike. Supreme Court decisions recognize that collective agreements negotiated between employers and unorganized workers have legal status equivalent to collective-

bargaining agreements, although collective agreements negotiated by a union have precedence over collective agreements negotiated by nonunionized employees.

A 2009 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. However, the government lacked sufficient mechanisms to ensure that laws prohibiting employer interference in unions and protecting workers from employer reprisals were adequately enforced. The Labor Code prohibits employer antiunion discrimination and protects workers engaged in union activities from loss of employment or discriminatory transfers; however, these occurred in practice. Employers in the retail industry frequently hired temporary workers to circumvent code requirements for permanent workers; temporary workers have the same rights established under a collective-bargaining agreement as do other employees, except relating to dismissal. 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. Due to 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. Two 2009 executive decrees strengthened the ability of workers to bargain collectively by clarifying the criteria for legitimate subcontracting and by establishing an enforcement plan to protect the rights of temporary workers.

Unions and collective bargaining are permitted in EPZs and call centers, some of which operated under the law applicable to EPZs. A strike in the EPZs is considered legal only after 36 workdays of conciliation; striking workers may be fined or fired if they stop work without the strike being considered legal. There were approximately 2,790 employees in EPZs and 8,830 employees in call centers. Other call centers registered with the Public Services Authority were not subject to EPZ 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. There were no reports that forced labor 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 older 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-old children from engaging in potentially hazardous work and identifies such hazardous work to include work with electrical energy, explosives, or flammable, 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 p.m. and 8:00 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. 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 2010 child labor survey performed by the government in conjunction with the ILO International Program on the Elimination of Child Labor, approximately 60,700 children and adolescents (7 percent of the overall population in the five-to-17-year-old age group) were found working. This was a 32 percent decrease from the previous survey in 2008, when approximately 89,800 children were found working. Sixty-nine percent of working children also attended school. Seventy-seven percent of working children and adolescents said they worked less 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 watermelon. The harvest season for these products is in January and February, with planting occurring in March and April. Children generally work five to eight hours per day while working these crops.

According to the 2010 survey, approximately 36,400 children (and almost all of the 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. The problem of child labor in agricultural areas fell most heavily on indigenous families that often migrated from their isolated communities in search of paid work and whose frequent migrations interrupted schooling. Many indigenous families believed in the importance of children working to obtain necessary life skills and preferred to bring women and children to the fields for safety.

Also according to the survey, approximately 1,870 children between the ages of five and 17 worked as domestic servants, compared to 4,500 in 2009, although the law prohibits such employment under age 14. Government enforcement regarding labor violations in this sector was traditionally weak, because the places of work were private residences. Children also worked in the informal sector; for example, approximately 5,100 performed personal services; 9,200 worked in trade and the repair of motor vehicles and appliances; 3,100 worked in manufacturing; and 2,200 worked in construction. According to NGO Casa Esperanza, fewer children worked in urban areas as street vendors, vendors working at fixed locations, baggers in supermarkets, fare collectors on buses, shoe shiners, window washers, car washers, loaders, port workers, hair stylists, manicurists, and painters. The number of children collecting garbage in Panama City and Colon decreased, because that work was privatized.

On February 23, by decree, MITRADEL established the National Directorate for the Eradication of Child Labor and the Protection of Working Adolescents (DIRETIPPAT). Primary DIRETIPPAT responsibilities were to promote strict application of child labor laws, including on the eradication of child labor, and to protect lawfully employed adolescents.

Also on February 23, First Lady Marta Linares de Martinelli announced the country's Roadmap toward the Elimination of Child Labor that outlined a specific strategic plan to achieve the goals of the National Plan for the Eradication of Child Labor (2007-11). The national plan, adopted in 2006, contained goals of eliminating the worst forms of child labor by 2015 and eradicating all illegal child labor by 2020. The roadmap, a joint effort of the ILO's International Program on the Elimination of Child Labor and the Committee for the Eradication of Child Labor and the Protection of Working Adolescents (CETIPPAT), identified the following six dimensions of the effort: fighting poverty, improving education, improving healthcare, protecting basic rights, increasing social mobility, and increasing knowledge about the hazards of child labor.

The government continued to raise awareness about and provide training for officials and civil society on combating child labor, although its budget to combat child labor shrank from approximately 541,000 balboas (\$541,000) in 2009 to 253,000 balboas (\$253,000) during the year. CETIPPAT outreach decreased from 1725 children in 96 schools in 2009 to 200 children in nine schools during the year, while the number of inspectors decreased from 196 in 2009 to 178 during the

year. From April to October, DIRETIPPAT conducted more than 30 training sessions on child labor in which more than 1,000 individuals participated, including workers, businesspersons, parents, students, union leaders, and local officials.

The National Secretariat for Children, Adolescents, and the Family (SENNIAF) continued operations with a budget of 2.3 million balboas (\$2.3 million), an increase from its startup budget of 2 million balboas (\$2 million) in 2009, and more than doubled its staff members to 72. SENNI AF operated programs that offered comprehensive services to children at risk and their families, including home and school visits, tutoring, and parental counseling. During the year it assisted 2,470 children and adolescents rescued from child labor and identified and assisted 81 child and adolescent street laborers. To improve traditionally poor communication among government agencies involved in combating child labor, SENNI AF in midyear organized the first Symposium for Inter-Institutional Coordination to bring together similar institutions to share information about programs and services for children and adolescents in vulnerable situations.

During the year CETIPPAT provided outreach to 654 children engaged in or at risk of child labor. The National Institute of Vocational Training for Human Development implemented programs for parents of those children involved in DIRETIPPAT's outreach program.

The NGO Casa Esperanza, CETIPPAT, and MIDES continued programs in the comarca of the Ngobe-Bugle, in Santiago de Veraguas, and in Chorrera that provided scholarships for working children, so they could begin or return to primary school, and provided job-training and literacy programs for their parents.

e. Acceptable Conditions of Work

At year's end the minimum wage ranged from 1.06 to 2.00 balboas (\$1.06 to \$2.00) 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 approximately 184 to 347 balboas (\$184-\$347) per month. The poverty line was 94 balboas (\$94), while the extreme poverty line was 53 balboas (\$53) per month per person or 212 balboas (\$212) for a family of four. Food and the use of housing facilities were considered part of the salary for some workers, such as domestic and agricultural workers. The agricultural and construction sectors received the lowest and highest minimum wages, respectively. 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 well below the minimum wage, particularly in most rural areas, where unskilled laborers earned from three to six balboas (three to six dollars) per day without benefits. MITRADEL was less likely to enforce labor laws in most rural areas (see section 6, Indigenous People).

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. However, the government did not enforce health and safety standards adequately. For example, during the year eight construction workers in Panama City died due to accidents suffered on the job. MITRADEL's Department of Inspection conducted 1,713 construction inspections during the year, approximately half of which were initiated by a request. 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 it would be cost

prohibitive to replace such equipment. Construction workers and safety inspectors needed training to enable them to use new construction technologies.

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. Law 68 enacted in October requires that the resident engineer and a MITRADEL safety officer remain on construction sites, establishes fines for noncompliance, and identifies a tripartite group composed of MITRADEL, the Chamber of Construction, and construction union Suntracs to regulate adherence.

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