

U.S. Department of State

Panama Country Report on Human Rights Practices for 1998

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PANAMA

Panama is a representative democracy with an elected executive composed of a president and two vice presidents, an elected 72-member legislature, and an appointed judiciary. President Ernesto Perez Balladares, elected in May 1994, is the chief executive. In an August referendum, citizens rejected the President's proposal to amend the Constitution to allow reelection of a president to a second term. Although the Constitution provides for an independent judiciary, the judicial system is subject to corruption and political manipulation.

Panama has had no military forces since 1989. In 1990 the Government created the Panamanian Public Forces, which consist of the Panamanian National Police (PNP), the National Maritime Service (SMN), the National Air Service (SAN), and the Institutional Protection Service (SPI). In 1994 a constitutional amendment formally prohibited the establishment of a permanent military, although it contains a provision for the temporary formation of a "special police force" to protect the borders in case of a "threat of external aggression." The Ministry of Government and Justice oversees the PNP, SMN, and SAN, while the Ministry of the Presidency supervises the SPI. The PNP are responsible for law enforcement. The Judicial Technical Police (PTJ) perform criminal investigations in support of public prosecutors. In December a law changed the PTJ, formerly under the judicial branch's Public Ministry, into a semiautonomous body with leadership appointed by the Supreme Court. Credible reports of corruption within both the PNP and PTJ contributed to some police dismissals. Police forces respond to civilian authority, have civilian directors, and have internal review procedures to deal with police misconduct. There were reports of instances of abuse by some members of the security forces.

The service-oriented economy uses the U.S. dollar as currency, called the Balboa. Gross domestic product grew by 4.4 percent in real terms in 1997, and its growth was projected to be below 4 percent in 1998. The Ministry of Economic Planning expects accelerating growth through the year 2000 as the effects of economic liberalization and the Panama Canal transfer become evident. Poverty persists and income distribution remains skewed, with large disparities between rich and poor. Unemployment is estimated at 14 percent.

The Government generally respected the human rights of its citizens, but there continued to be serious problems in several areas. Police and prison guards on occasion used excessive force against detainees and prisoners. Despite some modest improvements, overall prison conditions

remained poor, with occasional outbreaks of internal prison violence. Prisoners were subject to prolonged pretrial detention. The judiciary was subject to political manipulation, and the criminal justice system was inefficient and often corrupt. There were instances of illegal searches and political pressure on the media. Violence against women remained a serious problem, and discrimination against women persisted. Worker rights are limited in export processing zones. The Government continued to prosecute a small number of officials responsible for abuses during the years of dictatorship from 1968 to 1989. The legislature created the office of Human Rights Ombudsman in December 1996, but initially did not provide funding, and the office did not open until January, when it began to handle cases. However, in February the Supreme Court stripped the Ombudsman of his authority to investigate human rights violations involving the administration of justice.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political killings.

A PNP officer was accused of the shotgun killing of detainee Arnulfo Stone at the Public Prison in Colon. The officer was transferred to administrative duties pending an investigation. According to other prisoners present at the time of the shooting, Stone refused the officer's demand to stop singing and, after a verbal altercation, the officer shot Stone at point blank range with his shotgun. According to the accused officer, the shooting was accidental.

A Public Ministry investigation concluded in August that three PNP guards accused of the March 1997 beating death of detainee Jose Luis Alvarado at the Tinajitas prison should stand trial. The guards remain separated from the PNP pending the outcome of the trial.

There was no further action in the PNP investigation into the June 1997 shooting death of Ngobe-Bugle tribe member Juan Santos Chobra.

The Government continued to prosecute a small number of officials for abuses committed during the years of dictatorship, from 1968 to 1989.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution prohibits use of measures that could harm the physical, mental, or moral integrity of prisoners or detainees. Although the public security forces generally performed in a professional and restrained manner, there were some reports of excessive use of force or inhuman punishment, particularly against prison inmates (see Section 1.a.). There also were

reports that police used physical violence and psychological threats to control detainees during the initial arrest, interrogation, and holding phases.

The legislation providing the legal basis for the PNP, promulgated in June 1997, includes specific guidelines for use of force, including deadly force; requires that police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior. However, there is no follow-on training in the use of force provided to the PNP.

The PTJ and the PNP have offices of professional responsibility that act as internal affairs organs to hold officers accountable for their actions. Both have staffs of independent investigators as well as administrative authority to open internal investigations. In both organizations, a defined legal process is followed where, upon completion of the process, the respective director has the final authority to determine the disposition of each case. Penalties include reduction in rank, dismissal, and in severe cases, criminal prosecution.

Corruption among police officers continues to be a problem, but in some cases, PNP and PTJ directors enforced strict disciplinary measures against officers shown to be involved in illicit activities. However, both organizations only react to egregious abuses, due to a lack of staff, independence, and institutional priority. The authorities fired four PNP officers in August for allegedly shooting a 16-year-old girl in Santiago for no apparent reason, leaving her bleeding at the scene. According to witnesses, the officers were drunk.

There were several instances in which police responded with force to demonstrations, including one incident in December when there were reports of beatings and abusive treatment, especially of those taken into custody, following a demonstration of workers and students (see Section 2.c.). Despite efforts to introduce some prison reforms, prison conditions throughout the country remained extremely poor and a threat to prisoners' health and safety. Most prisons are dilapidated and overcrowded. Medical screening and care is inadequate, with tuberculosis and other communicable diseases common among the prison population. Frequent gang battles injured or killed numerous inmates. Many of the problems within the prisons stem not only from overcrowding but also from the lack of separation of inmates by classification according to the type or severity of the crime committed.

An inmate at Tinajitas prison, Roberto Johnston, reported that eight prison guards severely beat him on April 24 with two-by-fours after he resisted their harassment. Johnston was taken to a local hospital for treatment, but the authorities did not investigate his charges of brutal treatment. The National Department of Corrections (DNC) largely depends on PNP officers, who are inadequately trained for prison duty, to supply its guard force. Civilian corrections officers or "custodians" handle inmates within La Joya, El Renacer, and the central women's prison (which uses only female guards). The DNC has authority to discipline prison guards with criminal or civil sanctions. No action was taken regarding a 1997 proposal by one legislator to create a permanent bureau within the PNP to train officers on human rights issues.

Prison conditions on Coiba Island Penal Colony remained grim. According to a former prison official, in January five prisoners attempted to escape into the mountains from their loosely

guarded compound on the island. However, they apparently emerged on a part of the island reportedly controlled by a rival prison gang and, according to a witness and the police, the rival prisoners captured, tortured, and beheaded four prisoners. The fifth individual survived and is protected under maximum security as the only witness. The authorities accused 14 prisoners of participating in the killings.

A special prosecutor investigating the killings suspended plans in July for a reconstruction of the crime due to the prison officials' inability to provide adequate security to the investigators while on Coiba Island. As a result of the investigation into the decapitations, the murders of eight additional prisoners were uncovered. The prosecutor claimed that these murders also resulted from gang rivalries that pervade the prison colony. In a subsequent incident on August 10, four prisoners were stabbed in a dispute between rival gangs.

Although national prison authorities had slated Coiba for closure, they have used the island prison colony as a means to relieve overcrowding at the two largest prisons, La Joya and La Joyita. By moving dangerous prisoners to Coiba, prison officials have attempted to establish order in the other prisons. Although the Government began reducing the number of prisoners at Coiba, a recent influx has caused the inmate population to increase once again. The Government acknowledges that it must keep Coiba open, but it has not made adequate provisions for health, security, and other basic needs of prisoners there.

Many prisoners on Coiba Island have not yet been tried. Geographic isolation and lack of communications have separated detainees from their attorneys and caused many to miss trials. Prisoners suffer from malnutrition and shortages of potable water, and medical care is practically nonexistent. Coiba has a civilian administrator, but its guard force still consists of police guards instead of civilian corrections officers. Escapes from Coiba are reportedly common.

Prison conditions in Colon province also are extremely poor. According to the Human Rights Commission of the Legislative Assembly, prisoners at the Women's Prison of Colon must contend with overcrowding, semidarkness day and night, constantly wet floors, and virtually no health care. The Commission also described the Public Prison of Colon as a "time bomb" that fails to provide the most basic health needs. The prison frequently has no running water or functioning sewage system.

Conditions at women's prisons in Panama City and Chiriqui province and at the Juvenile Detention Center were noticeably better than at adult male prisons. Even so, female prisoners, especially those in the primary detention area, reportedly suffered from overcrowding, poor medical care, and lack of basic supplies for personal hygiene.

The Prison Director acknowledges that the current prison system has over 8,000 prisoners with only 6,116 allotted positions. Even after the 12 murders at Coiba, the Government appears to have no plans to close the colony. However, it announced plans to build five new medium and maximum security compounds at La Joya prison to relieve overcrowding and to allow for more effective classification of prisoners, reducing the mixing of hardened criminals with lesser offenders. The Government also completed a new security fence and visitation center at La Joya,

and it has plans for remodeling both the Women's Prison and the Nueva Esperanza Prison in Colon.

On July 30, the Prison Director announced an organizational restructuring of the National Prison System to improve procedures and inmate management. She also introduced a conditional release program for inmates charged with minor offenses who have served a substantial part of their sentence. President Perez Balladares initiated the program on August 3, authorizing the release of 228 prisoners who are to remain under supervised parole.

The Government generally allows prison visits by independent human rights monitors, although Human Rights Ombudsman Italo Antinori was prevented from entering La Joya on July 2. In this incident, Antinori attempted to visit construction union activists arrested in a demonstration. Then-Minister of Government and Justice Raul Montenegro stated that Antinori was stopped because he had not given advance notice to prison officials of his visit.

d. Arbitrary Arrest, Detention, or Exile

The Constitution stipulates that arrests must be carried out with a warrant issued by the appropriate authorities, and the Government generally respected this provision. Exceptions are permitted when an officer apprehends a person during the commission of a crime, or when disrespect by an individual towards an officer prevents the officer from carrying out his duty. The law requires the arresting officer to inform the detainee immediately of the reasons for arrest or detention and of the right to immediate legal counsel, to be provided by the State for the indigent.

The Constitution also provides for judicial review of the legality of detention and mandates the immediate release of any person detained or arrested illegally. The Constitution prohibits police from detaining suspects for more than 24 hours without bringing them before a competent judicial authority. In practice, the authorities often violated the 24-hour time limit by several days. Under law the preliminary investigation phase may last 8 days to 2 months, and the follow-on investigation phase another 2 to 4 months, depending on the number of suspects. Extensions of these limits are frequently granted by the courts, leaving the accused in detention for a long period without having been formally charged.

Extended pretrial detention continued to be one of the most serious human rights problems, in part a consequence of the elaborate notification phase in criminal cases. Many legal authorities (including court officials) criticized judges for excessive use of this measure. According to government statistics, pretrial detainees constituted approximately 65 percent of the prison population, down from 78 percent in 1995. The average period of pretrial custody was 16 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common. A legal mechanism exists to hold the Government financially accountable in cases where a detainee spends more than 1 year in jail but subsequently has all charges dismissed at a preliminary hearing. The dismissal must be either because the act of which the detainee was accused is not ruled a crime or because there is no evidence to link the suspect to the crime. Although this redress procedure is not complicated, few former detainees have employed it. On

May 8, President Perez Balladares stated that the justice system was on the verge of collapse, and he confirmed that more than 60 percent of the penal population consisted of pretrial detainees. Legal alternatives to prison exist but are not widely implemented. Options such as house arrest have been used in some cases involving the elderly or minors, but require that the defendants have access to and understanding of their legal options.

The police detained 80 minors in overcrowded and unsanitary conditions for 8 to 10 days in April for minor violations despite the legal requirement that they be brought before a juvenile judge within 24 hours. According to the police, the delay was due to the absence of court personnel during the Holy Week holidays.

The Constitution prohibits exile; there were no reports of forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary is susceptible to corruption and outside influence, including from other branches of government.

The President appoints nine Supreme Court magistrates to 10-year terms, subject to Legislative Assembly confirmation. The Supreme Court magistrates appoint appellate (Superior Tribunal) judges, who, in turn, appoint circuit and municipal court judges in their respective jurisdictions. Judicial appointments are supposed to be made under a merit-based system, but the top-down appointment system lends itself to political tinkering and undue interference by higher-level judges in lower-level cases in which they have no jurisdiction. The Attorney General, who heads the Public Ministry, appoints the superior and circuit-level prosecutors.

In December the Legislative Assembly passed a law that gives the Supreme Court the power to appoint the Director and Sub-Director of the PTJ for 7-year terms and requires Supreme Court approval for their removal. Opposition and media critics charge that this move may increase the influence of the Supreme Court over the criminal investigators, while removing the generally positive oversight of the Attorney General, and make cooperation between prosecutors and the police much more difficult. President Balladares and the PTJ Director reject arguments that the removal of the Attorney General's oversight over the PTJ may make this investigative agency more susceptible to political manipulation and corruption and argue that the changes would help institutionalize the PTJ.

At the local level, mayors appoint administrative judges who exercise jurisdiction over minor civil and criminal cases in which they may impose fines or sentences of up to 1 year. This system has serious shortcomings: defendants lack adequate procedural safeguards; judges need not be (and normally are not) attorneys; and some engage in corrupt practices. In reality, appeal procedures are nonexistent. More affluent defendants tend to pay fines while poorer defendants go to jail, one of the chief factors leading to prison overcrowding.

In May the Government announced an \$18.9 million Inter-American Development Bank loan to reform the judicial system. The loan is to be used at national and local levels to provide better conditions for the court system, including better information management, training for personnel,

revision of judicial procedures, and construction of administrative offices for judges and prosecutors in various locations nationwide.

In August the Government created two commissions to review and make recommendations for improvements to the justice system. These commissions are composed of representatives from the Attorney General's office, the National Bar Association, the Legislative Assembly, and the Ministry of Government and Justice, among others. At year's end, drafting of the final reports was underway and both were expected in early 1999.

The Constitution provides that persons charged with crimes have the right to counsel, to be presumed innocent until proven guilty, 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 the proceeding. Judges can order the presence of pretrial detainees for the rendering or amplification of statements, or for confronting witnesses. Trials are conducted on the basis of evidence presented by the public prosecutor, and the accused person is not necessarily present. The Constitution and the Criminal Procedure Code provide for trial by jury at the defendant's election, but only in criminal cases where at least one of the charges is murder.

The Constitution obliges the Government to provide public defenders for the indigent. However, many public defenders are not appointed until after the investigative phase of the case, a serious disadvantage for the defendant since it is during this stage that the prosecutor produces and evaluates the bulk of the evidence and decides whether to recommend trial or the dismissal of charges. Public defenders' caseloads remained staggering, averaging 540 cases per attorney. Only 1 new public defender has been hired since 1992, making a total of 36 nationwide. This heavy workload undermined the quality of representation, with many prisoners meeting their public defender for the first time on the day of trial.

The right to a fair and independent trial was compromised seriously in 1997 in the case of Jaime Abad, former director of the PTJ. Based on dubious evidence, Gerardo Gonzalez, President of the PRD and of the Legislative Assembly, accused Abad of hiding or manipulating ballistics test results in the investigation of Gonzalez's son, Pedro Miguel, for the 1992 murder of U.S. serviceman Zak Hernandez. (Gonzalez also used his influence to ensure the acquittal of his son despite substantial evidence against him.) While Abad was originally charged with a misdemeanor, the charges against him were increased to felony counts in January 1997 after Gonzalez closeted himself with the judge in her chambers for 50 minutes prior to the hearing. In reviewing the case, the local Center for Human Rights Investigation and Legal Assistance (CIDHS) stated that "Jaime Abad ... faces a judicial process in which there are clear indicators that it has been the subject of manipulation by interests of dubious origin." The CIDHS further concluded that Gonzalez used and abused his political power to manipulate the judicial process against Abad in order to help his son Pedro Miguel Gonzalez. Abad was convicted in December 1997 and sentenced to 3 years in prison. The judge subsequently reduced the sentence to a \$1,500 fine. Abad refused to pay the fine and appealed. On June 25, President Perez Balladares issued a full pardon for Abad, terminating the legal process against him and preventing any future legal action on the alleged crimes. Abad departed the country the following week.

The Legislative Assembly passed legislation in July, popularly known as the "Faundes Law," which requires judges to retire at age 75. The law was designed to remove former Supreme Court magistrate Jose Manuel Faundes after attempts to impeach him failed to muster the necessary two-thirds majority vote in the Assembly. The law, which was signed by the President in August, required the 82-year-old Faundes to retire, making the impeachment proceedings moot. The National Bar Association believed that the retroactive nature of the law was unconstitutional.

There were no reports of political prisoners.

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

The Constitution provides for the inviolability of the home, private papers, and telephonic communications. The authorities may not enter private residences except with the owner's permission, or by written order from the appropriate authority for specific purposes. These may include entry to assist the victims of crime or disaster, or to conduct lawful health and safety inspections. The authorities may not examine private papers and correspondence, except as properly authorized by competent legal authority and in the presence of the owner, a family member, or two neighbors. The Government generally has respected these rights. However, there were complaints that in some cases police failed to follow legal requirements and conducted unauthorized searches of private residences.

Although the Constitution prohibits all wiretapping, the Government maintains that wiretapping with judicial approval is legal. Under the guidelines established by antinarcotics legislation passed in July 1994, the Public Ministry may engage in undercover operations, including "videotaping and recording of conversations and telephonic communications." The Supreme Court has not issued a definitive ruling on whether wiretapping is constitutional and, if so, under what circumstances.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice.

There is an active and often adversarial press and a broad range of electronic and print media outlets, including foreign television and radio broadcasts, cable stations, and newspapers. Six national daily newspapers, 3 commercial television stations, 2 educational television stations, and over 95 radio stations provide a broad choice of informational sources; all are privately or institutionally owned. While many media outlets took identifiable editorial positions, the media carried a wide variety of political commentaries and other perspectives, both local and foreign. There is a noticeable concentration of control of television outlets in the hands of close relatives and associates of the President. The President's cousin owns a controlling interest in two of the three commercial television stations and the principal cable television provider.

Panamanian and foreign journalists worked and traveled freely throughout the country. However, by year's end the Government still had not fulfilled its earlier, informal promise to seek revocation of the 1978 law that requires directors and deputy directors of media outlets to be citizens. In 1997 the Government attempted to expel Peruvian journalist Gustavo Gorriti under this law because of the embarrassment that his investigative reports caused relatives and close associates of President Balladares.

Under "gag laws" dating from the military dictatorship, the Government has legal authority to prosecute media owners and reporters for criminal libel and calumny. A special executive branch authority has discretionary powers to administer the libel laws, which provide for fines and up to 2 years in prison. Under the statute, opinions, comments, or criticism of government officials acting in their official capacity are specifically exempted from libel prosecution, but a section of the law allows for the immediate discipline of journalists who show "disrespect" for the office of certain government officials.

PNP Director Jose Luis Sosa used this law to bring charges against National University law professor Miguel Bernal for statements about the decapitations of the prisoners on Coiba Island (see Section 1.c.). Bernal said on television that "the only ones who have decapitated others in this country are the National Police and the National Guard of the now defunct Defense Forces." Bernal clarified that he had not said the PNP had carried out the decapitations at Coiba, rather that the PNP, through acts of omission, allowed the decapitations. Bernal, an advocate of prison reform, repeated his charges in follow-up interviews and opinion pieces. He claims that the PNP Director's charges amount to a limitation of freedom of expression. Sosa's charges against Bernal remained pending at year's end.

In another case, a prosecutor acting on behalf of Attorney General Jose Antonio Sossa charged La Prensa journalists Gustavo Gorriti and Rolando Rodriguez with a "crime against the honor of the authorities" for defaming a government official and allegedly falsifying evidence. Gorriti and Rodriguez refused to reveal sources for a story they wrote in 1996, which alleged that the Attorney General accepted checks of dubious origin in his unsuccessful 1994 campaign for a seat in the Legislative Assembly. Subsequent press reports suggested that the story was erroneous. The charges remained pending at year's end.

In August Solicitor General Alma Montenegro de Fletcher threatened in the press to charge journalists Marcelino Rodriguez and Blas Julio under the libel and calumny law for reporting allegations that she received a house on a former U.S. military base through questionable procedures.

In late December, La Prensa journalist Herasto Reyes Barahona was called in for official questioning for allegedly committing a crime against the honor of the authorities by defaming the Housing Minister and the President. At year's end, the investigation continued, with Herasto Reyes refusing to cooperate.

The press laws provide for the establishment of a censorship board. The board monitors radio transmissions and has the authority to fine stations that violate norms regarding vulgar and profane language.

The law provides for academic freedom, which was generally respected in both public and private universities.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of peaceful assembly, and the Government generally respects this right in practice. No authorization is needed for outdoor assembly, although prior notification for administrative purposes is required.

The Legislative Assembly is considering a bill that would tighten restrictions on public demonstrations and prohibit demonstrators from carrying weapons, damaging property, or interrupting traffic. It also would require 24 hours' notice prior to any event, provide for increased fines, and apply penalties to anyone "inciting" illegal behavior through the media. Opponents claim that the bill, which is backed by the Government, would limit freedom of expression and peaceful assembly. The Government supports the bill as an attempt to alleviate the massive traffic jams that even small and orderly demonstrations can cause. Often, demonstrators purposefully attempt to disrupt traffic.

Police response to public protests was mixed. Throughout much of the year, police showed restraint and professionalism while monitoring very large protest marches by students, political activists, and construction workers. In June construction workers, demanding higher wages and better working conditions, confronted police in 2 days of violent demonstrations. Workers pelted antiriot police with stones and bottles, injuring 21 officers. The police responded with tear gas and bird shot, resulting in minor injuries, and arrested 37 demonstrators.

In early December, a mix of student and worker groups, protesting the privatization of the state-owned water utility and the changing of the date to celebrate a national holiday, engaged in a week of protests and confrontations. The demonstrators used Molotov cocktails and hurled stones at police. The police response to the at-times violent protests included the use of bird shot, tear gas, and rubber bullets. There were reportedly dozens of beatings and instances of abusive treatment, particularly against those taken into custody. The police entered and temporarily closed the University of Panama for the first time since 1968.

The Constitution provides for the right of association, and the Government generally respects this right in practice. Citizens have the right to form associations and professional or civic groups. They may form and organize political parties freely, although new parties must meet strict membership and organizational standards in order to gain official recognition and participate in national campaigns.

c. Freedom of Religion

The Constitution, although recognizing Catholicism as "the religion of the majority of Panamanians," provides for free exercise of all religious beliefs, provided that "Christian morality and public order" are respected. The Government imposes no limitations in practice,

and there is a broad diversity of religions. The Constitution prohibits clerics from holding public office, except as related to social assistance, education, or scientific research.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government respects them in practice. The Government enforced exit permit requirements for foreigners who overstayed their initial visas. A 9:00 p.m. curfew for minors under 18 years of age in the Panama City and San Miguelito districts of Panama province, imposed in 1992, remained in effect. Police enforcement of the curfew was uneven, with strictest compliance focused on high-crime areas.

The law has provisions for granting refugee status in accordance with the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol. The Government generally cooperates with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The issue of first asylum did not arise during the year. As of year's end, the UNHCR had still not reached agreement with the Government on the legal framework for UNHCR involvement in the drafting of a contingency plan for the possible future entry of large groups of Colombians.

In 1997 approximately 200 Colombians, who entered Panama fleeing violence by paramilitary and guerilla groups, were returned to Colombia. In 1998 there were unconfirmed reports that police stationed along the border had, on an ad hoc basis, required Colombians to return to Colombia.

There were no reports of the forced return of persons to a country where they feared persecution. Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government Citizens have this right and last exercised it in the 1994 general elections. The Constitution provides for a representative democracy with direct popular election by secret ballot of the President, two vice presidents, legislators, and local representatives every 5 years. While the Constitution provides for independent legislative and judicial branches, in practice the executive dominates. The independent Electoral Tribunal arranges and supervises elections. The Government respected the rights of its citizens to join any political party, propagate their views, and vote for candidates of their choice.

During the year, the governing party engaged in a major campaign to amend the Constitution to allow reelection of the President to a second consecutive term. The constitutional amendment was debated in two sessions of the Legislative Assembly, as required under the Constitution. The Assembly approved the amendment on May 18. However, in an August 30 referendum, the public rejected the proposed amendment by a margin of almost two to one.

The lively referendum campaign was characterized by heavy spending and disciplined organization by the administration's proreelection camp. Meanwhile, the opposition complained about the Government's use of public funds in campaign spending and possible undue influence over the Electoral Tribunal. Voter turnout was approximately 65 percent. The voting was very orderly and marred by only minor incidents, mostly involving politicking at the voting centers.

Proponents of both sides of the proposal, along with national and international observers, commended the Electoral Tribunal for a well organized and transparent process.

There are no legal barriers to participation by women, members of minorities, or persons of indigenous descent, but they are generally underrepresented in government and politics. Women hold 5 of 72 Legislative Assembly seats and 3 of 13 cabinet positions. A woman leads the major opposition party, and another woman is the mayor of the capital city, one of the most important elected positions in the country.

The Government provides semiautonomous status to several indigenous groups in their homelands, including the Kuna Yala, Ngobe-Bugle, Madugandi, and Embera-Wounaan reserves. The Kuna Yala of San Blas have two representatives in the Legislative Assembly, proportionate to their share of the population.

Locally, tribal chiefs govern each reserve; they meet in a general congress at regular intervals. Neither the Madugandi nor the Embera-Wounaan reserve has its own dedicated legislators, but each has a separate governor.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Human rights organizations, including both religious and secular groups, operated without government restrictions. These organizations carried out a full range of activities, including investigations and dissemination of their findings. Organizations generally had access to government officials while conducting investigations. Some organizations were particularly active in encouraging voter turnout for the referendum and in assisting election observers. Human Rights Ombudsman Italo Antinori, the first to fill the position that was established in December 1996, sparred with the Government throughout the year. On February 12, the Supreme Court stripped him of immunity against criminal prosecution as well as authority to investigate human rights violations in the administration of justice. After meeting with other Human Rights Ombudsmen in the region, on March 4 Antinori filed a petition with the Inter-American Commission on Human Rights (IACHR) alleging that the Government violated his human rights. Although the Chief Justice and some jurists noted some constitutional flaws in the Ombudsman law, most saw the February Court ruling as a means to weaken the Ombudsman.

In response to the Ombudsman's petition, the Government invited the IACHR to visit to review first hand his status and the human rights situation in general. The President announced on March 10 that he would propose a constitutional amendment to restore the rightful powers of investigation to the Ombudsman. Although he did not criticize the Supreme Court ruling, the President stated that the Ombudsman must have the power to investigate, receive complaints from the public, and "morally sanction" anyone who violated human rights. The proposed constitutional amendment would not come into effect until late 1999. The Chief Justice announced his opposition to any attempt to restore the powers of the Ombudsman. At year's end, nothing had been done to restore the Ombudsman's authority.

On June 29, PRD leader and Assembly president Gonzalez demanded that Antinori submit proposed operating regulations for the Ombudsman's office to the Assembly, claiming Antinori was operating it without authorization. Antinori replied that he had submitted the regulations in October 1997. Gonzalez maintained that the Supreme Court's ruling on February 12 necessitated revising the regulations. Antinori resubmitted the original regulations on July 2, and the Assembly rejected them. Antinori revised and resubmitted the regulations. At the close of the 1998 legislative session, the Assembly had not yet voted on them.

After an initial delay in receiving funding from the Government, the Ombudsman began operation in January and created an effective and professional operation, which receives 15 to 20 complaints daily. With the authority only to investigate and publicize, Antinori handled several high-profile cases, including: Lobbying on behalf of residents near a cement factory that emits allegedly carcinogenic dust; criticizing prison conditions; publicizing alleged environmental degradation and health hazards in the mining sector; and supporting various journalists who had angered government and governing party officials. The Ombudsman also conducted a vigorous "get out the vote" campaign prior to the presidential referendum.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits either special privileges or discrimination on the basis of race, birth status, social class, sex, religion, or political views. Nevertheless, society still harbors many prejudices based primarily on social status. Cases of discrimination are difficult to prove, and legal remedies for victims are complicated, time-consuming, and costly.

Women

Domestic violence against women continued to be a serious problem. The Center for the Development of the Woman estimated that victims report as few as 20 percent of sexual assaults to judicial or law enforcement authorities. However, statistics indicate a greater willingness by women to report incidents of abuse. The PTJ registered 412 cases of domestic violence through June, compared with only 35 for all of 1997. The Foundation for the Promotion of the Woman, among other women's advocacy groups and government agencies, operated programs to assist victims of abuse, and to educate women on their legal rights. The 1995 Family Code criminalizes family violence, including psychological, physical, or sexual abuse, although convictions are rare unless a death occurs.

In addition to domestic violence, sexual harassment is a threat to the equal status of women in society. According to a report by the Latin American Committee for the Defense of Women, in 1995 about 70 percent of female government employees reported having endured sexual harassment in the workplace, 42 percent by their immediate supervisors and 18 percent by even more senior supervisors. Since a bill to criminalize sexual harassment failed to pass the legislature in 1995, no further legislation has been introduced.

The 1995 Family Code recognizes joint or common property in marriages. Insufficient resources, however, hampered government efforts to enforce the Code's provisions effectively.

The Constitution mandates equal pay for men and women in equivalent jobs, but wages paid to women are 20 percent lower and increase at a slower rate. Although statistics are lacking, there are credible reports of irregular hiring practices based upon age and "attractiveness." In December the Legislative Assembly passed a law that reiterates protections laid out in the Constitution and prohibits all discrimination on the basis of sex.

A number of private women's rights groups, including groups for indigenous women, concentrate on disseminating information about women's rights, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms. The Foundation for the Promotion of the Woman said that it provided legal assistance, counseling, and skills training to over 2,000 women in 1997.

In January the Government created the Ministry of Women, Youth, Family, and Childhood, appointing Leonor Calderon as the Minister. Although the new Ministry is largely a consolidation of departments previously operating in other government ministries, its creation raises the profile of social issues.

Children

Minors (under 18 years of age) represent 48 percent of the population. Education of children is compulsory through the equivalent of ninth grade. However, in remote areas children do not always attend school due to a lack of transportation, traditional attitudes, and insufficient government enforcement resources. The Government furnishes basic health care for children through local clinics run by the Ministry of Health. A central children's hospital in Panama City operates on government funds as well as private donations.

The Superior Tribunal for Minors and Superior Tribunal for Families are judicial authorities charged with overseeing the protection and care of minors. The new Minister of Women, Youth, Family, and Childhood acts much like an ombudsman, and her office proposes and reviews laws and monitors government performance. The office of the First Lady has assumed an advocacy role on some children's issues. Many children continue to suffer from malnutrition, neglect, and inadequate medical care. Malnourishment is lowest in urban areas and highest among rural indigenous groups.

Juvenile courts report a high incidence of juvenile delinquency in major urban areas. The authorities report an increase in crimes attributed to juvenile gangs, including drug trafficking, armed robberies, kidnappings, car thefts, and murders.

People With Disabilities

The Workers with Disabilities Office of the Department of Labor and Social Welfare is responsible for government policy and support for citizens with disabilities and for placing qualified disabled workers with employers. The office was in charge of implementing a June 1993 executive order that provided employers with tax incentives for hiring people with disabilities but has had only minimal success. Although some public buildings and retail stores

have access ramps for disabled people, no law or regulation compels the installation of facilitated access features in public or private buildings.

Indigenous People

Indigenous people number approximately 194,000 (8 percent of the population) and have the same political and legal rights as other citizens. The Constitution protects the ethnic identity and native languages of indigenous people, requiring the Government to provide bilingual literacy programs in indigenous communities. Indigenous people have legal rights and take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. The Family Code recognizes traditional indigenous cultural marriage rites as the equivalent of a civil ceremony. The Ministry of Government and Justice maintains a Directorate of Indigenous Policy. The Legislative Assembly also has an Indigenous Affairs Commission to address charges that the Government has neglected indigenous needs. Despite legal protection and formal equality, indigenous people generally endure relatively higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. Discrimination against indigenous people, although generally not overt, is widespread.

Since rural indigenous populations infrequently master Spanish well enough to use appropriate legal terminology, they often have difficulty understanding their rights under the law and defending themselves in court. The indigenous population has grown increasingly vocal in requesting that the Government grant it more autonomy by creating more indigenous reserves or expanding existing ones. The Government continued the process of demarcating electoral districts within a new reserve created for the Ngobe-Bugle.

The Ngobe-Bugle Congress condemned the Government for allowing mining concessions within its territory, one of which allegedly produced a cyanide spill.

National/Racial/Ethnic Minorities

The law prohibits discrimination against any social, religious, or cultural group; however, naturalized citizens may not hold certain categories of elective office. There is some evidence that a constitutional provision reserving retail trade to Panamanian citizens originally was directed at Chinese immigrants, but government officials have stated that it serves as a barrier to prevent foreign retail chains from operating in the country. The measure is not enforced in practice, however. Chinese, Middle Eastern, and Indian legal residents, as well as citizens of Chinese and Indian descent, operate much of the retail trade, particularly in urban areas. Leaders of the over 100,000-member East Asian and South Asian communities credibly claimed that Panamanian elites treat Panamanian-resident Chinese and Indians as well as citizens of Asian origin as second-class citizens.

Section 6 Worker Rights

a. The Right of Association

Private sector workers have the right to form and join unions of their choice, subject to registration by the Government. A labor code reform package signed in 1995 significantly increased workers' ability to establish unions. The reforms streamline the accreditation and registration process for unions, reduce the minimum size from 50 to 40 workers, and cut the Government's required response time on applications from 2 months to 15 days. In the event the Government does not respond within this time frame, the union automatically gains recognition and is accorded all rights and privileges under the law.

According to Ministry of Labor statistics, approximately 10 percent of the total employed labor force is organized. There are 257 active unions, grouped under 7 confederations and 48 federations representing approximately 80,000 members in the private sector. Neither the Government nor the political parties control or financially support unions.

The 1994 Civil Service Law permits most government workers to form public employee associations and federations and establishes their right to represent members in collective bargaining with their respective agencies. It also provides most workers with the right to strike, except for certain government workers in areas vital to public welfare and security, such as the police and health workers and those employed by the U.S. military forces and the Panama Canal Commission.

The Labor Code reforms addressed some longstanding concerns of the International Labor Organization (ILO). The code no longer makes labor leaders automatically ineligible to keep their union positions if they are fired from their jobs.

An April ILO ruling supported the Government's decision to fire striking air traffic controllers in 1996 based on the finding that air traffic control is an essential service. The ruling stated that the controllers have no ground for reinstatement to their jobs.

Union organizations at every level may and do affiliate with international bodies.

b. The Right to Organize and Bargain Collectively

The Labor Code provides most workers with the right to organize and bargain collectively, and unions widely exercise it. The law protects union workers from antiunion discrimination and requires employers to reinstate workers fired for union activities. The Ministry of Labor has mechanisms to resolve complaints against antiunion employers. The Civil Service Law allows most public employees to organize and bargain collectively and grants them a limited right to strike. The Labor Code establishes a conciliation board in the Ministry of Labor to resolve labor complaints and provides a procedure for arbitration.

Employers commonly hire temporary workers to circumvent onerous labor code requirements for permanent workers; such temporary workers receive neither pensions nor other benefits. The practice of blank contracts is, according to union sources, becoming more widespread. Labor law addresses this problem by requiring all companies to submit copies of all labor contracts for permanent workers to the Labor Ministry and by requiring the Labor Ministry to conduct periodic inspections of companies' work forces and review all contracts to ensure that they are in

order. The code also authorizes the Labor Ministry to levy fines against companies not in compliance with the law.

In January and February 1996, the Government issued cabinet decrees governing labor relations in export processing zones (EPZ's) as a means of attracting investment into areas vacated under the terms of the Panama Canal Treaty. The original decree limited a broad range of labor rights, including the right to strike and to bargain collectively. The second decree modified the first and restored most worker rights in EPZ's. However, it provides for collective bargaining with "representatives of employees" but makes no specific mention of trade unions; it requires mandatory arbitration of disputes; and it allows for the participation of an unrepresentative worker delegate in the tripartite (government, labor, and industry) arbitration commission. A January 1997 decree further modified the EPZ labor regulations, stipulating that a strike may be considered legal only after 36 workdays of conciliation are exhausted. If this requirement is not met, striking workers can be fined or fired. An April ILO ruling noted that the January 1997 regulations do not mention arbitration or specify procedures to resolve disputes in the courts. The ILO ruling stated that the Government should amend the EPZ labor regulations to conform with international norms.

c. Prohibition of Forced or Compulsory Labor

The Labor Code prohibits forced or compulsory labor, including that performed by children, and neither practice was reported.

d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Code prohibits the employment of children under 14 years of age as well as those under 15 years if the child has not completed primary school; children under age 16 cannot work overtime; those under 18 years cannot perform night work. Children between the ages of 12 and 15 may perform farm or domestic labor as long as the work is light and does not interfere with the child's schooling. The Ministry of Labor enforces these provisions in response to complaints and may order the termination of unauthorized employment. The law prohibits forced or bonded labor by children, and the Government enforces this provision (see Section 6.c.). However, the Government acknowledges that it is unable to enforce other child labor provisions in rural areas, due to insufficient staff.

Child labor violations are reported more frequently in the production of sugar cane and coffee, and in subsistence agriculture. In addition, many children work as domestic workers or sell items in the streets. The Permanent Committee Against Child Labor asserted that 11 percent of all children between the ages of 10 and 17 are working or are actively seeking work.

e. Acceptable Conditions of Work

The Labor Code establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly. It also establishes minimum wage rates for specific regions and for most categories of labor. The minimum wage, which was increased in July by \$0.08 per hour, ranges from \$0.77 per hour to \$1.33 per hour, depending on the sector. It is not enough to support a

worker and family above the poverty level. Most workers formally employed in urban areas earn the minimum wage or above. Most workers in the large informal sector earn below the minimum wage.

Unions have repeatedly alleged that contractors operating in the Panama Canal area pay less than the required minimum wage. The Ministry of Labor does not adequately enforce the minimum wage law, due to insufficient personnel and financial resources.

The Ministry of Labor is responsible for enforcing health and safety standards and generally does so. The standards are fairly encompassing and generally emphasize safety over long-term health hazards, according to organized labor sources. An occupational health section in the social security system is responsible for conducting periodic inspections of especially hazardous employment sites, such as those in the construction industry, as well as inspecting health and safety standards in response to union or worker requests. In April a broken freight elevator at a high-rise construction site caused 13 construction workers to fall 25 floors to their deaths. The construction union claimed that the tragedy illustrated the unsafe work conditions in the construction industry. Worker complaints of health problems continued in the banana industry as well as in the cement and milling industries.

The law protects from dismissal workers who file requests for health and safety inspections. Workers also have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They are generally not allowed to do so if the threat is not immediate, but may request a health and safety inspection to determine the extent and nature of the hazard.

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