



1999 Country Reports on Human Rights Practices
Released by the Bureau of Democracy, Human Rights, and Labor
U.S. Department of State, February 25, 2000

PANAMA

Panama is a representative democracy with an elected executive composed of a president and two vice presidents, an elected 71-member legislature, and an appointed judiciary. In May voters elected President Mireya Moscoso, who replaced former President Ernesto Perez Balladares on September 1. 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. The PTJ is a semiautonomous body with leadership appointed by the Supreme Court. 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, calling it the Balboa.

Gross domestic product grew by 4.6 percent in 1998, but growth for 1999 was projected to be below 4 percent. The Ministry of Economy and Finance expects modestly higher growth in 2000 as the effects of economic liberalization and the Panama Canal transfer become evident. Poverty persists and income distribution remains extremely skewed, with large disparities between rich and poor. Unemployment is estimated at 13 percent.

The Government generally respected the human rights of its citizens; however, there continued to be serious problems in several areas. Police and prison guards on occasion used excessive force against detainees and prisoners, and on occasion police used force against protesters. Credible reports of corruption within both the PNP and PTJ contributed

to some police dismissals. Despite some modest improvements, overall prison conditions remained harsh, with occasional outbreaks of internal prison violence. Prisoners were subject to arbitrary and prolonged pretrial detention. The judiciary was subject to political manipulation, and the criminal justice system was inefficient and often corrupt. The Government began implementation of a \$27 million program to reduce case backlogs, inefficiency, and corruption in the judiciary. There were instances of illegal searches and political pressure on the media. Violence against women remained a serious problem, and discrimination against women persisted. Discrimination against indigenous people and blacks is a problem. Child labor also is a problem. Worker rights were limited in export processing zones. Trafficking in persons, particularly Asian immigrants, also was a problem.

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 or other extrajudicial killings.

A Public Ministry investigation concluded in August 1998 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, but as of year's end there had been no further action in this case.

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

In September President Moscoso rescinded pardons granted by former President Perez Balladares for 33 former civilian and military collaborators of former ruler General Manuel Noriega, in order to allow the Government to continue prosecutions of officials for abuses committed during the dictatorship--from 1968 to 1989. One such official reportedly was involved in the execution of nine persons following a failed coup attempt against Noriega in 1989.

In September the authorities discovered an unmarked grave containing two bodies on the grounds of a former military base near Panama City. One of the bodies was believed to be that of Hector Gallego, a Colombian priest who disappeared in 1971 during the Torrijos dictatorship. In 1992 after the return of civilian rule, three former military officers were tried for his murder and given lengthy prison sentences. There was also speculation that the other body was that of Eber Quintanar, an accused guerrilla reportedly killed by the National Guard in 1969. After several DNA tests, investigators determined that the remains belonged to neither Gallego nor Quintanar. As of year's end, the identity of the corpses was still unknown. During the investigation, longstanding rumors of other gravesites scattered around the country reemerged in the press. Investigators initiated excavations at several sites but did not achieve any results by year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

Guerrillas from the Revolutionary Armed Forces of Colombia (FARC) reportedly kidnaped persons in the Darien region along the border with Colombia. At year's end, they had abducted three persons and held them for ransom; there were reports that the FARC harassed citizens and even killed some persons, but there were no confirmed killings.

The Hector Gallego Committee for Disappeared Relatives maintains a list of 120 people who disappeared during the military dictatorships of 1968-89.

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

The Constitution prohibits the use of measures that could harm the physical, mental, or moral integrity of prisoners or detainees; however, while 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. 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. The PNP deputy director and secretary general address human rights issues that arise in the police force.

Corruption among police officers remained a problem, but in some cases, PNP and PTJ directors enforced 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. Credible reports of corruption within both the PNP and PTJ contributed to some police dismissals.

According to residents of the Pueblo Nuevo neighborhood, in March police shot a minor who was lying on the ground in handcuffs. The authorities placed a sergeant and three

officers on administrative duty while the PNP's Office of Professional Responsibility investigated, and sent the case to the PNP's disciplinary committee. At year's end, the investigation continued, and the officers remained on administrative duty.

In April the Office of Professional Responsibility stated that it was investigating 50 police officers for poor conduct, including the use of excessive force and violations of citizens' human rights. In addition to the Pueblo Nuevo shooting, the office sent the case of an alleged police attack on two sisters in San Miguelito to the Disciplinary Committee of the PNP.

There were several instances in which police responded with force to demonstrations. For example, in February and in August the police used tear gas and bird shot to disperse protesters (see Section 2.b.).

Police arrested and detained children for minor infractions during neighborhood sweeps (see Section 5).

The FARC guerrillas and the paramilitary forces of the United Self-Defense Forces of Colombia (AUC) share a long history of spillover of violence from Colombia into the border area on the Darien peninsula, including killings, kidnapping, robbery, and other forms of harassment of innocent bystanders. In November the AUC reportedly forced the evacuation of the San Blas town of La Bonga and burned it to the ground.

Prison conditions throughout the country remained harsh 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. Gang violence, insufficient budgets, and abuse by prison guards also are problems of the prison system.

The General Penitentiary Directorate (DGSP) largely depends on PNP officers, who are trained inadequately 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 DGSP has authority to discipline prison guards with criminal or civil sanctions.

President Perez Balladares' Minister of Government and Justice attempted to introduce some reforms of the penal system. He changed the prison management structure in June and replaced the Department of Corrections with the DGSP, but substantive reform was lacking. In September President Moscoso's Minister of Government and Justice, Winston Spadafora, promised to make prison reform a top priority. PNP Director Carlos Bares also promised reform, stating in September that prison guard responsibilities should fall to civilian corrections officers and not the PNP. However, at year's end, PNP members continued to provide perimeter security at the prisons. Prison directors supervise "

custodians " who provide internal security.

Prison conditions on Coiba Island Penal Colony remained harsh and dangerous. In January 1998, a prison gang reportedly beheaded four of five prison escapees who belonged to a rival gang. The authorities accused 14 prisoners of participating in the killings, but these prisoners continued to maintain their innocence. The lone survivor and witness is in a maximum security cell. Both guards and prisoners have been implicated in the investigation into the other eight murders discovered in 1998, but the authorities had brought no one to trial by year's end. Although national prison authorities had planned to close Coiba, they continued to use the island prison colony to relieve overcrowding at the two largest prisons, La Joya and La Joyita. Prison officials also had attempted to establish order in the other prisons by moving dangerous prisoners to Coiba. However, after completion of two new compounds, La Joya became the primary maximum security facility and houses most prisoners accused of serious crimes. This enabled the authorities to use Coiba to hold prisoners accused of lesser crimes and to relieve overcrowding in the prisons of the central provinces (i.e., outside Panama City and Colon). 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.

The authorities have not yet brought to trial many of the 361 prisoners on Coiba Island. Geographic isolation and lack of communications 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 reportedly are common.

According to unverified press reports, eight inmates at Coiba have AIDS. The prisoners told reporters that they are isolated in small cells and that medical attention is provided once a year. At La Joya prison, 22 inmates with AIDS went on a hunger strike in June to protest their lack of access to medical treatment and their need for special permits to receive medicine. La Joya has a planned capacity of 1,250, yet houses over 2,000 inmates. Prison conditions in Colon province also are harsh. 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, " which fails to provide the most basic health needs. The prison frequently has no running water or functioning sewage system. In June approximately 150 inmates at the Colon women's prison refused to return to their cells in order to force a dialog with the Corrections Director and Minister of Government and Justice. The inmates complained about the food, the failure to release inmates who had served two-thirds of their sentences with good behavior, the lack of rehabilitation or skills programs, and the sudden absence of Prison Director Cristina Torres. Then-Corrections Director Maritza Grifo acknowledged the overcrowding problem; 576 inmates were housed in a facility for 325 persons, and 61 persons eligible for conditional release still were incarcerated. The inmates' protest ended without violence after officials promised to investigate the complaints. As of year's end, there had been no substantive reform of the prison.

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. However, female prisoners, especially those in the primary detention area, reportedly suffered from overcrowding, poor medical care, and lack of basic supplies for personal hygiene. Juvenile Detention Centers throughout the country suffer from inadequate resources to provide for education or adequate supervision of children, many of whom spend a majority of their time in an empty cell.

The current prison system has over 8,600 prisoners with only 6,843 allotted positions. Prison administrators plan to close both the Colon Women's Prison and the Public Prison of Colon and shift those inmates to Nueva Esperanza prison. The new inmates are to be housed in separate sections of Nueva Esperanza, where construction was quite advanced at year's end, with some of the new cells already outfitted with bunks and toilets. However, inmates from the rapidly deteriorating Public Prison reportedly were apprehensive about being moved to Nueva Esperanza, where their access to the outdoors will be limited.

In July 1998, the authorities introduced organizational reforms of the prison system, including a conditional release program for inmates charged with minor offenses who have served a substantial part of their sentence. The new government continued to implement the conditional release program, and released some 60 inmates by year's end, with new rounds expected for early 2000. The release program has already helped relieve pressure on the country's overcrowded prisons. In June former National Penitentiary Director Enriqueta Davis filed an 80-page criminal complaint against then-Minister of Government and Justice Mariela Sagel. The complaint alleged that Sagel knew about prisoners buying furloughs, funds being mismanaged, and other abuses, yet refused to take action. Davis attributed other problems to the lack of modern administrative procedures. For example, because records are kept manually at each location, there is no central archive or census of inmates. The National Council for Private Enterprise (CONEP) publicly asked then-President Perez Balladares to look into Davis's allegations. CONEP expressed concern over the disappearance of materials and food that were destined for the penitentiary system. Several other reports of corruption and misallocation of prison resources appeared in the media throughout the year.

The Government generally allows prison visits by independent human rights monitors. However, the authorities arrange appointments ahead of time, and monitors generally speak to prisoners in the presence of guards or administrators. Prisoners may not feel comfortable speaking freely under such conditions, and they have expressed fear of retaliation if they complain. Officials from the Ombudsman's Office occasionally had trouble gaining immediate access to some prisons, but various procedural details were worked out and it appeared that the situation had improved by year's end.

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; however,

the authorities often violated the provision that suspects are to be brought promptly before a judge. 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 to the indigent by the State.

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. The courts frequently grant extensions of these limits, leaving the accused in detention for a long period without having been charged formally.

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, there were 4,687 pretrial detainees, who constituted about 59 percent of the prison population, down from 65 percent in 1998. 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.

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 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. New allegations of executive tampering with the judiciary arose with the creation of the Fifth Chamber of the Supreme Court. In July the Assembly passed a law that created a fifth chamber, which allowed then-President Perez

Balladares to appoint three additional Supreme Court Justices before leaving office. In October the Assembly approved a Moscoso administration proposal to repeal the law, eliminate the three additional magistrate positions, and abolish the Fifth Chamber.

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 1998, the Legislative Assembly passed a law that gave 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. Previously, the Attorney General appointed these two officials. The law also gave these two officials the power to name other PTJ officials without consulting the Attorney General. Opposition and media critics charged that this law increased the influence of the Supreme Court over the criminal investigators, removed the generally positive oversight of the Attorney General, and made cooperation between prosecutors and the police much more difficult. Tensions between the Attorney General and the PTJ arose in July when PTJ officers and the Attorney General, accompanied by his PNP bodyguards, exchanged shouts with guns drawn before both sides finally backed down. The incident was followed by charges by both sides of abuse of authority.

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 1998, the Inter-American Development Bank (IDB) loaned the Government \$18.9 million 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 two locations, San Miguelito and David. Program implementation began during the year, with funding allocated to temporary courts to clear backlogs, for training additional judges, and for working with the judicial college to create a curriculum that encourages the merit-based hiring and promotion of judges. In September the IDB began work on a database linking prison population data with prosecutors and the courts, which is intended to facilitate the systematic release of prisoners who have served time beyond their potential maximum sentence but still are awaiting trial.

The two commissions established during the Endara administration and resurrected by the Perez Balladares administration to evaluate the justice system never presented publicly any results of their work.

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 in 1998. Only 3 new public defenders have been hired since 1992, making a total of 38 nationwide, with a similar number of assistants. 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 Legislative Assembly passed legislation in 1998, popularly known as the "Faundes Law," which requires judges and other public officials 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 required the 82-year-old Faundes to retire, making the impeachment proceedings moot. The National Bar Association challenged the constitutionality of the law's retroactive nature. However, in July the Supreme Court ruled that the law did not violate the Constitution.

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, and the Government generally respected these rights; however, there were complaints that in some cases police failed to follow legal requirements and conducted unauthorized searches of private residences. 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.

Although the Constitution prohibits all wiretapping, the Government maintains that wiretapping with judicial approval is legal, and that the Attorney General may authorize a wiretap when confronted with probable cause in a serious crime. 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. " In March a dispute arose when critics charged Attorney General Sossa with illegally wiretapping a judge. The Attorney General countered that he was operating within his authority to pursue a criminal investigation. Although then-Chief Justice Arturo Hoyos publicly criticized Sossa, 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 print and electronic media outlets, including foreign newspapers, radio and television broadcasts, and cable stations. Six national daily newspapers, 3 commercial television stations, 2 educational television stations, and approximately 100 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 former President Perez Balladares.

In June the National Assembly passed a bill that made newspaper companies ineligible for radio and television concessions and vice versa. The bill was proposed after the La Prensa Corporation, the publisher of a newspaper of the same name, sought to acquire the Channel 8 frequency.

Panamanian and foreign journalists worked and traveled freely throughout the country. The Perez Balladares Government never fulfilled its informal promise to seek revocation of the 1978 law that requires directors and deputy directors of media outlets to be citizens. In June then-Minister of Government and Justice Mariela Sagel recommended the revival of the Noriega-era system of issuing journalist licenses to Panamanian citizens graduating from journalism schools. Working journalists and human rights groups criticized this suggestion, and it was dropped.

Under " gag laws " dating from the military dictatorship, the Government had legal authority to prosecute media owners and reporters for criminal libel and calumny. A special executive branch authority had 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 exempted specifically 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. In December President Moscoso ratified the National Assembly's decision to eliminate these gag laws. Although this action improved the legal status of the media, legal actions against many journalists remained pending at year's end.

Human Rights Ombudsman Italo Antinori criticized the Perez Balladares administration's use of libel laws to intimidate journalists who reported on government corruption. Approximately 85 journalists who had been charged with libel met with Antinori to describe the case they have submitted to the Inter-American Court of Human Rights. Other international free press and human rights bodies had criticized the continued use of the laws against journalists.

In 1998 then-PNP Director Jose Luis Sosa used the libel laws to bring charges against National University law professor (and now an adviser to the Moscoso administration) Miguel Bernal for statements about the decapitations of the prisoners on Coiba Island (see Section 1.c.). Bernal had 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 that 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 claimed that the PNP Director's charges amounted to a limit on freedom of expression. There was a preliminary hearing on Sosa's charges against Bernal in November, but no trial date had been set by year's end.

In another 1998 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, and the Attorney General sued the two journalists for \$1 million. In December 1998, police officers attempted to escort journalist Herasto Reyes from his office at the La Prensa newspaper to a court appearance. Newsroom staffers prevented the police from taking Reyes into custody. Then-President Perez Balladares had filed libel charges against Reyes, after he published a story in August 1998 accusing the Perez Balladares administration of trying to cover up a government embezzlement scandal. The case was still pending at year's end.

The Electoral Tribunal must approve election polling results before publication. In April

the Tribunal fined the newspaper Panama America \$10,000 for failing to follow the approval procedure before printing Gallup poll results.

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 generally was respected in both public and private universities. However, the Faundes Law forced the retirement of dozens of professors at the public universities.

After protesters turned to violence in December 1998 (see Section 2.b.), then-Governor of Panama Province Eduardo Herrera ordered the police to enter and temporarily close the University of Panama. In August then-President Perez Balladares issued a pardon for Herrera, who was accused of abuse of authority for violating the university's autonomy. President Moscoso rescinded that pardon in September.

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. In 1998 the Legislative Assembly considered, but did not enact, legislation that would have tightened restrictions on public demonstrations.

Police response to public protests was mixed. Throughout much of the year, police showed restraint and professionalism while monitoring large protests by students, political activists, prisoners, and workers. In February residents of the San Joaquin area protested the power company's cutting off electricity to 400 families that had fallen behind on payments. The move touched off 2 days of protests, during which demonstrators barred a section of the highway leading to the airport. In response, the police used tear gas and bird shot and arrested about 30 persons. Paramedics attended residents affected by the gas and injured by the bird shot. Eventually the residents and the electric company reached an agreement. On August 31, the police used similar methods to disperse bus drivers who blocked traffic in Panama City, as well as at smaller protests throughout the year.

In December 1998, a mix of student and worker groups protesting the privatization of the state-owned water utility, the changing of the date to celebrate a national holiday, and fee changes at the university 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 (also see Section 2.a.).

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.

During the year, between 300 and 500 Colombians fled the violence in Colombia and entered the country by crossing the border. At year's end the refugees were still living in the Darien town of Jaque and refused to return to Colombia until the Colombian Government could guarantee their safety in Jurado municipality. The Government, along with local NGO's and the United Nations, provided the refugees with protection and humanitarian assistance. At year's end, the Ministry of Foreign Affairs had not taken an official stance on policy towards the Colombians.

The law has provisions for granting refugee status in accordance with the 1951 U. N. 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 and other humanitarian organizations in assisting refugees. The issue of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution. However, throughout the year, there were unconfirmed reports that the police along the border, on an ad hoc basis, required Colombians to return to Colombia.

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

Citizens have this right and exercised it in the May 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.

In the May 2 general elections, Arnulfista candidate Mireya Moscoso defeated Democratic Revolutionary Party (PRD) candidate Martin Torrijos and Christian Democratic Party candidate Alberto Vallarino, winning 44.8 percent of the popular vote. The PRD won 35 seats in the National Assembly; the Arnulfistas, 18; Solidarity, 4; the National Liberal Party, 2; MOLIRENA, 3; Democratic Change, 2; MORENA, 1; the Christian Democratic Party, 4; and the Civic Renewal Party, 2.

Domestic and international observers characterized the elections as generally free and fair; however, several local contests were marred by reports of vote buying and in extreme cases, voter intimidation. Legislative District 9-3, in Veraguas province, was criticized widely for such electoral interference.

There are no legal barriers to participation by women, members of minorities, or persons of indigenous descent, but they generally are underrepresented in government and politics. At year's end, women held 7 of 71 Legislative Assembly seats, and a woman served as its vice president. Women also held 3 of 13 cabinet positions. In May voters elected the first female President, and an indigenous person was elected President of the National Assembly. There are two female members of the Supreme Court, one of whom was elected Chief Justice in October.

The Government provides semiautonomous status to several indigenous groups in their homelands, including the Kuna, Ngobe-Bugle, Madugandi, and Embera-Wounaan reserves. The Kuna 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. The Government continued the process of demarcating electoral districts within a new reserve created for the Ngobe-Bugle. May elections allowed many Ngobe-Bugle to choose their own local representatives in these newly created electoral districts.

The law prohibits discrimination against any social, religious, or cultural group; however, naturalized citizens may not hold certain categories of elective office.

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 May general elections and in assisting election observers.

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 1998, when it began to handle cases. In February 1998, the Supreme Court stripped the Ombudsman of his authority to investigate human rights violations involving the administration of justice. Human Rights Ombudsman Italo Antinori, the first to fill the position, sparred with the Perez Balladares Government until it left office. The Ombudsman received 15 to 20 complaints daily. With the authority only to investigate and publicize, Antinori handled several high-profile cases, although he failed to develop close links with other domestic human rights organizations. This highly personalized approach may have limited the overall institutional development of the ombudsman's office. Nonetheless, the office handled some 4,000 complaints since its founding in 1998, and Antinori's activities were well-publicized in the press. The Ombudsman also conducted a high profile " get out the vote " campaign prior to the general elections, consisting of public information messages on radio and television.

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, societal prejudices persist, 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 959 cases of domestic violence through August, compared with 582 through August 1998 and only 35 for all of 1997. The PTJ also registered 514 cases of rape and 135 cases of attempted rape. 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 criminalized family violence, including psychological, physical, or sexual abuse, although convictions are rare unless a death occurs. A widely acknowledged characteristic of rape is that it frequently occurs in the home.

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, the latest year statistics were available, 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 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. However, insufficient resources 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 on average 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 1998, the Legislative Assembly passed a law that reiterated protections laid out in the Constitution and prohibited 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 stated that it provided legal assistance, counseling, and skills training to over 750 women during the year.

In January 1998, 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 raised the profile of social issues.

Children

Minors (under 18 years of age) represent 48 percent of the population. The PTJ registered 171 cases of child abuse during the year. 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 resources to enforce the requirement. 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 Minister of Women, Youth, Family, and Childhood acts much like an ombudsman, and the office proposes and reviews laws and monitors government performance. Many children continue to suffer from malnutrition, neglect, and inadequate medical care. Malnourishment is lowest in urban areas and highest among rural indigenous groups. Child labor is a problem (see Section 6.d.).

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. In March the Minister of Women, Youth, Family, and Childhood charged the police with violating the human rights of minors by arresting and detaining them for minor infractions following periodic neighborhood sweeps.

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 the disabled but has had only minimal success. Although some public buildings and retail stores have access ramps for the disabled, no national law compels the installation of facilitated access features in public or private buildings. In July the Panama City government began enforcing municipal building codes passed in 1998 that require such access to be included in new construction.

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. May elections allowed many Ngobe-Bugle to choose their own local representatives in these newly created electoral districts. National/Racial/Ethnic

Minorities

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. 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.

Although such practices are illegal, clubs and restaurants often discriminate against blacks by denying them admission. After student protests at several nightclubs, Ombudsman Italo Antinori investigated and found racial discrimination at four nightclubs. Racial discrimination also is found in the workplace, particularly in jobs involving dealing with the public, where light-skinned persons are disproportionately represented.

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 are organized. There are over 250 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 civil servants (but not other government workers) with the right to strike, except for those 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.

As is general practice in the country's public offices after elections, newly elected politicians and appointees began dismissing public workers immediately upon taking office to free up positions for loyal followers. The authorities discharged up to several thousand government employees by year's end. Public workers do not benefit from union

protection, Labor Code standards, or minimum wage provisions. The Civil Service Law has proven insufficient to protect public workers. Under the law, public workers may be promoted into the civil service and thus enjoy some right to bargain collectively, strike, and evade summary dismissal. The Perez Balladares administration promoted some 10,000 public workers into the civil service during its final weeks in office, but the incoming Moscoso administration responded to this last minute influx by suspending the promotions of the new civil servants " for review. " Only a small percentage of the 150,000 public workers truly enjoy job security by virtue of their status as civil service employees.

The ILO's Committee of Experts has observed for some years that the prohibition of public servants' associations is inconsistent with obligations under ILO Convention 87 (The Right to Organize and Freedom of Association). The ILO made a second request that the Government amend labor laws with regard to public workers, but no changes had been made at year's end.

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 exercise it widely. 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 some of them a limited right to strike. While the right to strike applies to some 10,000 civil servants, it does not apply to the approximately 140,000 other government workers. The Labor Code establishes a conciliation board in the Ministry of Labor to resolve labor complaints and provides a procedure for arbitration. A March ruling by the Supreme Court declared unconstitutional Article 452 of the Labor Code, which obligated private sector strikers to submit to binding arbitration after a given period.

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 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. A 1998 ILO ruling noted that the 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, but the Government did not respond. Minimum wage provisions do not apply in the EPZ's.

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 of those under age 15 if the child has not completed primary school; children under age 16 cannot work overtime; those under age 18 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 their schooling. The Ministry of Labor enforces these provisions in response to complaints and may order the termination of unauthorized employment.

However, the Government acknowledges that it is unable to enforce other child labor provisions in rural areas, due to insufficient staff. The law prohibits forced or bonded labor by children, and the Government enforces this provision (see Section 6.c.).

The Permanent Committee Against Child Labor asserts that 11 percent of all children between the ages of 10 and 17 are working or actively are seeking employment. Most of these children, both rural and urban, are believed to be working at their parent's insistence. Some of these children may be providing a substantial part of their family income.

Child labor violations occur most frequently in rural areas during the harvest of sugar cane, coffee, and tomatoes. Farm owners usually pay according to the amount harvested, leading many persons to bring their young children to the fields to help with the harvest. In many small rural communities, the entire able-bodied population participates in a harvest, and parents are not willing to leave their children behind unattended. Many children also are involved extensively in subsistence agriculture.

Urban supermarkets employ an estimated 1,500 children, who work for tips bagging groceries. Some supermarket managers claim that these children are not employed by their firm, but these " baggers " often have schedules, uniforms, and must comply with company codes of conduct. In addition, many children work as domestic workers or sell items and wash cars in the streets.

The Government has not developed an effective strategy to address the problem of children working as street vendors and car washers, and has been unwilling to challenge the larger supermarket chains where large numbers of children work.

e. Acceptable Conditions of Work

The Labor Code establishes minimum wage rates for specific regions and for most categories of labor. The minimum wage ranges from \$0.77 per hour to \$1.33 per hour,

depending on the sector. This wage is not sufficient to provide a decent standard of living for a worker and family. Most workers formally employed in urban areas earn the minimum wage or above. An estimated 39 percent of the population who work in the large informal sector earn far below the minimum wage. The Government does not enforce labor laws in most rural areas, where laborers earn \$5 or \$6 per day, with no benefits. In December a tripartite commission comprising representatives from government, the private sector, and labor convened to negotiate an increase in the minimum wage, which would go into effect in July 2000. If the commission fails to reach consensus, the President has the power to raise the minimum wage by decree. Unions repeatedly have alleged that contractors operating in the Panama Canal area pay less than the required minimum wage. The Ministry of Labor does not enforce the minimum wage law adequately, due to insufficient personnel and financial resources. The Labor Code establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly.

The Ministry of Labor is responsible for enforcing health and safety standards and generally does so. The standards are fairly broad 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. 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 generally are 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.

f. Trafficking in Persons

The law prohibits alien smuggling, but does not prohibit specifically trafficking in persons. However, the authorities held several persons in custody for trafficking; they awaited trial at year's end.

The country is a transit point for aliens, primarily from other countries in South America (particularly Colombia and Ecuador) seeking to reach the United States, some of whom are trafficked into indentured servitude. An estimated 30,000 aliens transit the country annually, generally posing as tourists. Their travel is facilitated by a network of alien smugglers, travel agents, hotels, and safe-houses. The majority of aliens transiting through Panama originate in South America but a significant and increasing number come from India and China. Panamanians themselves represent only a small percentage of illegal aliens transiting through Central America.

Anecdotal evidence indicates that illegal aliens transiting through Panama overland are subject to frequent hardship. They commonly are deprived of adequate food and shelter.

Chinese aliens are particularly vulnerable to poor treatment. South Americans pay approximately \$5,000 in their country of origin for the entire trip. For the Chinese, \$5,000 constitutes only the down payment on a total fee that could reach \$30,000. Once in the United States, many Chinese are coerced into working off their debt as indentured servants in the Chinese community.

Corruption, legal technicalities, and lack of resources and staff contribute to the Government's inability to combat the problem fully.

[end of document]

[Latin America, the Caribbean, and Canada Index](#) | [Table of Contents](#) | [1999 Report Homepage](#) | [Human Rights Reports Index](#)

(End of Text)