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## Panama

### Country Reports on Human Rights Practices - [2005](#)

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Panama, a representative democracy with an elected executive composed of a president and two vice presidents, has a population of approximately 3 million. In 2004 national elections, which were considered by international and domestic observers to be generally free and fair, voters elected as president Martin Torrijos of the Democratic Revolutionary Party (PRD). The civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there continued to be serious problems in several areas. The following human rights problems were reported:

- harsh prison conditions, with reports of abuse by prison guards
- prolonged pretrial detention
- judicial system subject to corruption, inefficiency, and political manipulation
- political pressure on the media
- discrimination and violence against women
- trafficking in persons
- discrimination against indigenous people and other ethnic minorities
- child labor

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

During the year there were no reports that the government or its agents committed arbitrary or unlawful killings.

There were no new developments during the year concerning the 2004 request of the Fourth Superior Prosecutor that two off-duty Panamanian National Police (PNP) officers be tried for homicide in the 2001 killings of two men whose bodies were found on the beach in Punta Chame.

There were no developments regarding the Torrijos administration's 2004 communication to the Inter-American Commission on Human Rights regarding its interpretation of a document signed by former president Moscoso in 2004 by which the country accepted responsibility for certain crimes committed during the 1968-89 military dictatorship.

There were no developments in the 2002 petition before the Inter-American Commission on Human Rights regarding the 1970 disappearance and death of Heliodoro Portugal or the ordered detention of Ricardo Garibaldo in connection with Portugal's death. Garibaldo's whereabouts were unknown at year's end. It was believed that he fled the country in 1990 or 1991.

The Office of Truth Commission Continuation's solicitation of the opening or reopening of 16 cases and continued pursuance of 17 other cases of killings during the 1968-89 military dictatorship remained ongoing at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

Ana M. Gomez, who was appointed attorney general in January, named a temporary prosecutor to follow up on the Truth Commission Continuation's 2004 request to investigate 33 cases of killings or disappearances during the 1968-89 military dictatorship. There were no new developments regarding the identification of 16-20 human bodies found buried on the former penal island of Coiba. The Truth Commission Continuation continued to lack funds to conduct DNA tests to identify the remains and the area continued to be unguarded.

In contrast with the previous year, there were no reports of kidnapping, rape, or harassment by Colombian insurgents in Darien or Kuna Yala provinces.

There were no reports of politically motivated disappearances

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

Prison guards occasionally abused inmates. While admitting there were complaints against prison guards, the PNP's Professional Responsibility Office (DRP) did not provide statistics on the number of complaints of alleged police abuse against prison inmates.

As of the end of June, the PNP was investigating 26 cases of spousal rape by PNP officers.

In March four high-ranking PNP officers stationed in Darien Province were detained on charges of sexual abuse of minors. At year's end parallel investigations were ongoing at the Public Ministry and the PNP (see section 5).

#### Prison and Detention Center Conditions

Prison conditions remained harsh and, in some cases, life-threatening. By December the prison system, which had an official capacity of 7,213 persons, held 11,748 prisoners. Most prisons remained dilapidated and overcrowded. Many of the problems within the prisons continued to be due to lack of separation of inmates according to the type or severity of the crime committed.

Abuse by prison guards, both PNP and civilian, was a recurrent problem. Police officials received and investigated 34 cases of alleged abuse by prison guards from January through June.

The Association of New Men and Women of Panama, a gay and lesbian rights group, reported that there were at least two attempted killings of gay inmates by other inmates during the year. It was unclear whether these incidents were under investigation.

Medical care for prisoners was inadequate. AIDS, tuberculosis, and other communicable diseases were common among the prison population.

During the year the La Joya and La Joyita prisons continued to experience water shortages. Although authorities made renovations, the water system only worked two hours each day. The European Union continued to fund some legal, medical, and dental staff for prisons. There was at least one doctor in each major facility. As of mid-September, 16 inmates had died.

The General Penitentiary Inspection Directorate (DGSP) replaced 60 civilian correction officers who resigned or were fired.

The DGSP largely depended on 1,500 PNP officers to supply both internal and perimeter security at all prisons. There were 440 custodians for the entire prison system, which necessitated the use of regular PNP officers to fill staffing gaps. PNP officers sometimes were untrained for prison duty and reportedly found the assignment distasteful, which contributed to tension and abuses within the prison system. In prisons controlled by the PNP, prisoners complained of ongoing human rights violations, such as limited time outside of cells and limited access to family visits. Civilian custodians handled inmates within Nueva Esperanza, Tinajitas, El Renacer, and the central women's prison, which used only female guards. The DGSP did not have authority to discipline prison guards with criminal or civil sanctions; only the PNP disciplinary board could sanction a PNP agent or a custodian.

The main prisons in Panama City included La Joya (a maximum-security facility), La Joyita, Tinajitas, the Feminine Center (women's prison), and the Juvenile Detention Center. An additional facility, El Renacer, held inmates generally accused of less serious crimes. Despite a 2004 ombudsman's office recommendation that the government begin closing La Chorrera prison due to overcrowding and unsanitary conditions, the government had not done so by year's end.

In June an inmate at La Chorrera was killed by a cellmate. An investigation by the prison authorities determined that the killing was an act of self defense.

Small jails attached to local police stations around the country sometimes held prisoners for the entire length of their sentences, but the police who guarded them lacked the necessary custodial training to prevent abuses.

Female prisoners were held separately from male prisoners, and juveniles were held separately from adults. In Nueva Esperanza prison in Colon province, both male and female pavilions had separate sections for inmates convicted of administrative felonies and those convicted of violent crimes. Pretrial detainees often shared cells with sentenced prisoners due to lack of space. A pilot program for inmate classification was initiated in the El Renacer prison.

Even though conditions at women's prisons and at juvenile detention centers were noticeably better than at adult male prisons, female prisoners, especially in primary detention areas, reportedly suffered from overcrowding, poor medical care, and lack of basic supplies for personal hygiene.

With the exception of one modern facility near Panama City, juvenile pretrial and custodial detention centers throughout the country suffered

from inadequate resources to provide for education or supervision. An NGO provided classes on arts and crafts and sewing to some minors in detention.

The law's conditional release programs for inmates charged with minor offenses who have served a substantial part of their sentences were not implemented consistently. During the year the government granted 435 conditional releases to inmates who had served two-thirds of their sentences. By September more than two thousand inmates who had served two-thirds of their sentences remained in prison.

Although the government generally allowed prison visits by independent human rights observers, during a July visit by a Catholic priest, media representatives complained that prison security guards mistreated them and temporarily confiscated their cameras. Prison authorities claimed that media representatives had not requested clearance for the equipment ahead of time as stipulated in procedures. The ombudsman's office had an established prison visit program, and the government generally allowed ombudsman staff to speak with prisoners without monitoring. Prisoners expressed fear of retaliation if they complained. *Justicia y Paz*, the Catholic Church's human rights monitoring group, brought prison abuses to the attention of the authorities. The Association of New Men and Women of Panama alleged that prison authorities denied two requests by the organization during the year to conduct AIDS education and training in prisons.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The law permits exceptions when an officer apprehends a person during the commission of a crime or when an individual interferes with an officer's actions. Whereas the law provides that suspects be brought promptly before a judge, lack of prompt arraignment continued to be a problem. The law requires arresting officers to inform detainees immediately of the reasons for arrest or detention and of the right to immediate legal counsel. There is a functioning bail system, and detainees were allowed prompt access to family members. Police arrested and detained children for minor infractions during neighborhood sweeps (see section 5).

#### Role of the Police and Security Apparatus

The Judicial Technical Police (PTJ) and PNP are the only police agencies in the country. Although its primary mission is law enforcement, the PNP is also detailed for prison and border security. The country had no army. The PNP is under the civilian authority of the Ministry of Government and Justice. There were approximately 15,270 police officers. The PTJ, a semiautonomous body under the Office of the Attorney General with leadership appointed by the Supreme Court of the Republic, was a separate branch of law enforcement and performed criminal investigations in support of public prosecutors. The law includes specific guidelines for the use of force, including deadly force; requires that police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior. Although the PNP provided some training during the year, not all PNP staff members were trained in the use of force. The Office of the Ombudsman (Defensoria del Pueblo) provided human rights and legal training to PNP officers assigned as prison guards. An additional 57 members of the PNP attended various training courses abroad.

The PTJ and the PNP had offices that held officers accountable for their actions. Both had staffs of independent investigators, administrative authority to open internal investigations, and a defined legal process.

The PNP's deputy director and the secretary general addressed human rights problems that arose in the police force. The PTJ office received an average of 21 complaints per month up to June. The human rights ombudsman also received complaints against the police for abuse of authority but did not provide statistics (see section 4). As of June the PNP Office of Professional Responsibility had received 399 complaints (including 94 cases of improper behavior and 78 cases of physical mistreatment), an average of 16 complaints per week, an increase from 10 per week in 2004. Through mid-June, the office imposed penalties on 100 officers, including reductions in rank, criminal prosecutions and dismissals.

In March authorities detained four high-ranking PNP officers stationed in the Darien Province on charges of sexual abuse of minors. As of August parallel investigations were ongoing at the Public Ministry and the PNP (see section 5). At year's end, one of the officers had been dismissed from the PNP and the other three remained under investigation.

The PTJ received complaints from the public, and officers could make anonymous complaints of corruption and other problems. By June the PTJ Office of Professional Responsibility had conducted 128 investigations, resulting in the dismissal of 16 agents.

Corruption among police officers remained a problem. Although PNP and PTJ directors sometimes enforced disciplinary measures against officers with proven involvement in illicit activities, in general both organizations took corrective actions only in reaction to cases of egregious abuses. In March authorities suspended and requested the dismissal of PTJ Deputy Director General Eric Bravo on charges of manipulating an investigation to favor several personal friends. As of December the Supreme Court of Justice had not ruled on the issue, and Bravo remained suspended.

#### Arrest and Detention

The law provides for judicial review of the legality of detention, mandates the immediate release of any person detained or arrested illegally, and prohibits police from detaining suspects for more than 24 hours without bringing them before a judge. The preliminary investigation phase may last from eight days to two months and the follow-on investigation phase another two to four months, depending on the number of suspects. The courts frequently granted extension of time limits, leaving the accused in detention for long periods without formal charges. Many observers, including court officials, criticized judges for excessive use of this measure. While the law provides for bail, judges often declined to grant it. Detainees were allowed prompt access to legal counsel and family members, and the government provided indigent defendants with a lawyer.

There were no reports of political detainees.

Extended pretrial detention continued to be one of the most serious human rights problems, due in part to the elaborate notification phase in criminal cases. According to government statistics, 7,300 prisoners, or approximately 63 percent of the prison population, were pretrial detainees. The average period of pretrial custody was 24 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common.

#### e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, the judicial system was susceptible to corruption and outside influence, including manipulation by other branches of government. The president appoints 9 supreme court of justice magistrates to 10-year terms, subject to national assembly ratification. Supreme court magistrates appoint appellate (superior tribunal) judges, who appoint circuit and municipal court judges in their respective jurisdictions. Although judicial appointments were supposed to be made under a merit-based system, the system was undermined by political influence and interference by higher-level judges.

At the local level, mayors appoint administrative judges (*corregidores*), who exercise jurisdiction over minor civil cases and who hold wide powers to arrest and impose fines or jail sentences of up to one year. Outside of Panama City, this system had serious shortcomings. Defendants lacked adequate procedural safeguards. Administrative judges usually were not attorneys, had not completed secondary education and in some cases, were corrupt. In practice, appeal procedures were nonexistent. Affluent defendants often paid fines while poorer defendants went to jail, contributing to prison overcrowding (see section 1.c.).

#### Trial Procedures

The law provides that all citizens 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.

Trials are open to the public. The law provides for trial by jury at the defendant's election but only in cases where at least one of the charges is murder. Judges may order the presence of pretrial detainees for the rendering or amplification of statements or for confronting witnesses. Trials were conducted on the basis of evidence presented by the public prosecutor. Whereas defendants have the right to be present and to consult with an attorney in a timely manner, the law sometimes permits trials without the accused being present. Defendants can confront or question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right of appeal.

The law obliges the government to provide public defenders for the indigent. However, many public defenders were appointed late in an investigation, after the prosecutor already had evaluated the bulk of the evidence and decided either to recommend trial or to dismiss the charges. Public defenders' caseloads remained extremely high, averaging over 500 cases per attorney per year.

#### Political Prisoners

There were no reports of political prisoners.

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

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

In an effort to prevent unauthorized searches, the Public Ministry placed a representative, whose job was to approve searches, in each of the PTJ's divisions.

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

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

The law provides for freedom of speech and of the press. Individuals had complete liberty of expression, and there were no attempts to impede it. In the past the government and public figures used libel and disrespect-for-authority laws to confront and intimidate journalists who allegedly behaved irresponsibly or besmirched the honor of a particular government institution or leader. The ombudsman's office reported that during the year, no journalists or reporters were charged with criminal libel or injury; 15 persons were charged under these laws in 2004.

The independent media were active and expressed a variety of views without restriction. The government owned one educational television station (RTVE/11) and one radio station (Radio Nacional). The law prohibits newspapers from holding radio and television concessions, and vice versa.

On June 29, the government eliminated "gag laws," but pending legal actions remained against many journalists. The IAHR, the Inter-American Press Association, Reporters Without Borders, and other groups criticized these measures as efforts to censor the press. There continued to be no reform of the law regarding criminal libel.

At year's end there remained pending approximately 15 libel cases against journalists, including that of former agricultural minister Linenette Stanziola Apoloya against journalists Rafael Berocal and Sady Tapia. On August 17, the Marcel Chery and Gustavo Aparicio cases reappeared on the court docket.

In August supreme court of the republic justice Winston Spadofora filed a \$2 million (2 million balboas) civil damage lawsuit against journalists from *El Panama America* for reporting the construction of a private road near Spadofora's house using public funds. High-level officials, including the president, expressed concern regarding the motivations and consequences of such lawsuits.

In June President Torrijos signed and executed Law 22 abolishing the censorship board, which had monitored radio transmissions and had been authorized to sanction stations that violated norms regarding vulgar, profane, or obscene language.

There were no governmental restrictions on the Internet or academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice. There was one case of police abuse reported during May and June demonstrations against social security reforms. The police agent involved received an administrative reprimand for unnecessarily striking a demonstrator with a baton.

There were concerns about insufficient police presence at a June 24 gay pride march. Although police authorities permitted the march to take place, they assigned only one police officer to cover the event, in contrast to customary police practice at other marches where enough police were sent to protect marchers and direct traffic.

There were no further developments in cases relating to police brutality allegedly inflicted on 22 detainees held in connection with a 2004 incident in Bocas del Toro. During that incident, more than 28 persons were injured, including 24 police officers, when antiriot police attempted to open roads closed by residents demonstrating against the local private utility company (see section 1.d.).

#### c. Freedom of Religion

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

The law prohibits clerics from holding public office, except positions related to social assistance, education, or scientific research. Roman Catholicism enjoyed certain state-sanctioned advantages over other faiths, including the teaching of Catholic theology in public schools. Parents, however, had the right to exempt their children from religious instruction.

#### Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination, including anti-Semitic acts. There was a Jewish population of approximately 10 thousand persons.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#)

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

The law provides for these rights, and the government generally respected them in practice. A 9:00 pm curfew instituted in 2004 for unaccompanied minors in the Panama City and San Miguelito areas remained in effect.

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

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government sometimes granted refugee status or asylum. A 1998 decree grants protection to all persons entering the country due to "state persecution based on race, gender, religion, nationality, social group, or political opinion." The decree grants two months' temporary protection to "displaced persons" in the case of a large influx; however, in practice, the government did not enforce the two-month time limit. The 1998 decree provides for a meeting by the government's refugee commission every three months to determine the status of persons seeking refugee status. The commission met in April and August and granted asylum to 40 persons.

According to the Office of the UN High Commissioner for Refugees (UNHCR), there were 533 displaced Colombians under temporary protective status in the country. Many of them had given birth to children in the country. The government did not permit displaced Colombians to move or work outside of their assigned villages. Although the government was reluctant to classify displaced Colombians as refugees, it took some steps with the government of Colombia and UNHCR to regularize the status under other immigration categories of

Colombians, some of whom had lived in the country for years without formal refugee status.

In July the UNHCR stopped providing food for displaced persons and reassigned these funds for training refugees in baking, sewing, planting crops, and other skills. The Catholic Church and NGOs continued to assist the displaced Colombians with infrastructure and income generating projects. The International Committee of the Red Cross continued to provide some limited assistance to the approximately 40-50 displaced Colombians living in the remote Alto Tuira border area. The 533 displaced Colombians who remained in the country informed the government and the UNHCR that they did not want to return to Colombia due to current family and cultural ties with local communities.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. Pursuant to a 2004 agreement with the government, UNHCR had a permanent office in Panama City and was granted unimpeded access to refugees and UNHCR project sites. In July the UNHCR closed its regional office in Darien.

Authorities continued to refuse entry to Colombians who arrived by air and could not show that they had at least \$500 (500 balboas).

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The law provides for direct popular election by secret ballot of the president, the vice president, legislators, and local representatives every five years. Naturalized citizens may not hold certain categories of elective office. The independent Electoral Tribunal arranges and supervises elections.

#### Elections and Political Parties

Democratic Revolutionary Party (PRD) candidate Martin Torrijos won the presidency in 2004 national elections characterized by domestic and international observers as generally free and fair.

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

Women held 11 of 78 National Assembly seats. There were 2 women in the 13-member cabinet and 2 female judges on the Supreme Court of Justice, one of whom was appointed Chief Justice. In January a woman was appointed attorney general. Among ethnic minorities, there was one black male in the cabinet and on the Supreme Court of Justice, and there were dedicated seats for two Kuna Yala *comarca* and three Ngobe-Bugle *comarca* legislators in the National Assembly. In addition to the five dedicated seats, Bocas del Toro elected one Ngobe legislator to the National Assembly. Neither the Madugandi nor the Embera-Wounaan reserve had its own dedicated legislators.

#### Government Corruption and Transparency

Public perceptions of executive and legislative corruption remained high. A poll conducted during the year identified corruption as the third greatest national problem after unemployment and the high cost of living. In comparison with previous years, there were fewer hindrances to judicial follow up of accusations of corruption against members of the National Assembly. A National Anti-Corruption Commission was established by the Torrijos administration in 2004. The government continued to audit accounts on an agency level, rescind improperly granted diplomatic passports, dismiss employees for malfeasance, and bring charges against officials for petty corruption.

The transparency law provides public access to information from and about public entities, with the exception of cabinet meeting minutes. The solicitor general, however, narrowly interpreted the constitution to limit disclosure by notaries of statements of assets held by public officials.

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

A number of domestic and international human rights organizations operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The ombudsman's office, headed by Juan Antonio Tejada Espino, had moral but no legal authority. The ombudsman's office operated without government or party interference and had adequate resources. The government cooperated with the ombudsman, who was considered effective. During the year the office received complaints against the government.

Attorney General Ana M. Gomez, who was appointed in January, named a temporary prosecutor to follow up on the 2004 request by the Office of Truth Commission Continuation to investigate 33 cases of killings and 25 cases of disappearance during the dictatorship that ended in 1989 (see sections 1.a. and 1.b). The Public Ministry assigned special funds to support excavations and investigations into the 1971 disappearance of Colombian-born Catholic priest Hector Gallego. The Truth Commission questioned why this particular case received special funding while other cases received no additional resources.

### Section 5 Discrimination, Societal Abuse, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, disability, language, or social status and the government effectively enforced these prohibitions in practice. Societal prejudices persisted. Although the law specifically prohibits discrimination involving entry to public or commercial establishments and sets fines from \$250 to \$1 thousand (\$250 to \$1 thousand balboas) for violations, many commercial establishments continued openly to operate a "right of admission" policy, discriminating against dark-skinned persons. Cases of discrimination were difficult to prove, and legal remedies were complicated and time-consuming for victims.

## Women

Domestic violence against women continued to be a serious problem. Approximately three thousand cases of domestic violence are reported to the PNP each year. The Family Code criminalizes rape, spousal rape, and family violence, including psychological, physical, or sexual abuse, and provides prison terms of one to five years. Convictions for rape were rare. There also were few convictions for domestic violence because victims generally chose spousal therapy over prosecution. Abusers were commonly convicted of unintentional killing in cases of spousal death. By June the PTJ registered 911 cases of domestic violence. The PTJ also recorded 352 cases of rape and 81 cases of attempted rape by June. At year's end the PNP's DRP reported that its office investigated cases of domestic violence and rape committed by officers during the year. As of June 30, the PNP was investigating 26 cases of spousal rape committed by PNP officers.

The Support Center for Abused Women (CAMM) operated one temporary shelter for abused women and children funded by private donations and staffed by volunteers. The shelter did not serve women who had been abused outside of the domestic relations context. CAMM also provided domestic violence victims with health and legal services, counseling services for women and their domestic abusers, and a hotline.

The Foundation for the Promotion of Woman (FUNDAMUJER) and the Center of Colon Women (MUCEC), among other women's advocacy groups and government agencies, operated programs to assist victims of abuse and to educate women on their legal rights.

Prostitution was legal and regulated, but there was no information available on the extent to which it occurred.

Trafficking in women was a problem (see section 5, Trafficking).

The law prohibits sexual harassment in cases of established employer/employee and teacher/student relations, and violators can receive one-to-three year prison sentences. The extent of the problem was difficult to determine because convictions for sexual harassment were rare, and pre-employment sexual harassment was not actionable. Due to the few cases brought before the courts, effectiveness of law enforcement could not be judged.

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

The law mandates equal pay for men and women in equivalent jobs, but women on average received wages that were 30 to 40 percent lower than those received by men. Although women constituted the majority of workers in many service jobs such as office workers (72 percent), teaching (71 percent), and hotel and restaurant work (58 percent), women occupied only 40 percent of management and executive positions. There were some reports of irregular hiring practices based upon age and appearance.

Unlike in previous years, there were no reports of discrimination against female politicians.

The Ministry of Social Development, through the National Directorate of Women, promoted equality of women in the workplace and equal pay for equal work, attempted to reduce sexual harassment, and advocated legal reforms. A number of private women's rights groups disseminated information about the rights of women, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms.

## Children

The government was committed to children's rights and welfare. Education is compulsory through the ninth grade and the law establishes free public education through high school. Children did not always attend school due to traditional attitudes, financial and economic constraints, lack of transportation, too few secondary schools, and insufficient government resources. The problem was most extreme in Darien Province and among indigenous groups. According to the 2000 census, 65 percent of children nationally between the ages of 15 and 19 had some schooling beyond sixth grade. In the Embera and Ngobe-Bugle *comarcas*, however, approximately 18 percent of children in the same age group had schooling beyond sixth grade.

Schools did not differentiate in their treatment of boys and girls. School attendance figures were identical for boys and girls through elementary school. Beginning at the junior high level, more girls attended school than boys (130 thousand vs. 125 thousand).

The government furnished basic health care for boys and girls on an equal basis through local clinics run by the Ministry of Health, but clinics were difficult to reach from rural areas and often lacked medicine. Malnutrition and inadequate medical care were generalized problems, and were most severe among rural indigenous groups. A central children's hospital in Panama City operated with government funds as well as private donations. In June the government held health fairs around the country to provide children with vaccinations, dental exams, and medical checkups.

By June the PTJ registered 150 cases of child abuse and neglect. Sexual abuse, including incest, accounted for 111 of these cases. Lack of reporting remained a problem, often because of parental involvement or complicity. Sexual abuse of children was reported in both urban and rural areas, as well as within indigenous communities. The Public Ministry and PNP conducted investigations regarding the detention of four high-ranking PNP officers stationed in Darien Province on charges of sexual abuse of minors (see section 1.d).

By August the Ministry of Social Development had received 1,073 complaints regarding the physical abuse of children. During the year the ministry established a free phone line for psychologists and social workers for children to report abuses. The ministry also implemented a television campaign encouraging its use. The ministry received more than 35 thousand calls mainly related to physical abuse 14,038 and sexual abuse 1,995. Victims were directed to police authorities, hospitals, and protection centers for support. Child neglect was a problem.

Due to inadequate government resource allocations and training, family courts continued to render controversial decisions, including the return of children to abusive situations. By December the juvenile penal courts in Panama and Colon provinces reported 925 new cases against juveniles.

Gang recruitment of minors by young adults was an increasing problem. Police arrested and detained children for minor infractions during neighborhood sweeps.

Trafficking in children and child labor were problems (see sections 5, Trafficking and 6.d.).

#### Trafficking in Persons

The law prohibits trafficking in men, women, and children. However, there were reports that persons were trafficked to, from, or within the country. The magnitude of the problem was difficult to determine because the country was a transit point for illegal economic migrants who were not forced into prostitution or debt bondage, but who used the same routes as smugglers.

The Ministry of Government and Justice (MOGJ) is responsible for developing policies to reduce trafficking in persons, and the Ministry of Social Development (MIDES) has responsibility for protecting victims through shelters and related services. The PTJ's Sex Crimes Unit is charged with investigating and arresting persons involved in trafficking.

The law penalizes trafficking and pornography, and proscribes the promotion of sex tourism and use of the Internet for soliciting victims for trafficking and sexual exploitation. Persons who engage in human trafficking for purposes of sexual activity can receive five to eight years in prison, or in the case of a minor, eight to ten years. The law eliminates the need for a complaint to initiate an investigation, and permits undercover operations and the monitoring of suspects' computers in sex crime cases. The National Committee for the Prevention of Sexual Crimes (CONAPREDES) provided additional funding for combating trafficking and for victims' assistance. However, a proposal to fund CONAPREDES through a tax on the rental of adult videos or through the airport departure tax was not adopted by year's end.

The government allocated inadequate funding and resources to the PTJ sex crimes unit. As of May the PTJ's sex crimes unit had investigated six cases of sexual trafficking, six cases of child pornography, and two cases of procurement of persons for commercial sexual activities. During the year there were no arrests for sexual exploitation or sexual tourism. The prosecutor's office initiated its own investigations, but the government provided it with inadequate resources to conduct undercover investigations or to perform its other duties. The Public Ministry learned about one case involving child pornography only because of a request for information from INTERPOL. Information sharing between the government and other countries occurred but needed to be strengthened, as did coordination among the PTJ sex crimes unit, the PNP, and immigration authorities.

The country was a destination point for trafficked women. There was evidence that rural children were trafficked internally to work as domestic servants in urban areas. Colombia remained the primary country of origin for trafficked women, followed by the Dominican Republic. Although many Colombians and Dominicans came willingly to the country, apparently intending to become prostitutes, anecdotal evidence suggested that some were forced to continue as prostitutes after they wanted to end involvement.

The country was a transit point for Colombian sex workers to other Central American countries and the United States. Although some of these women were assumed to be trafficking victims, the government could not verify numbers. Alien smuggling remained a widespread problem, with most aliens coming from Ecuador, Peru, Colombia, China, and India, and transiting the country by means of smuggling networks enroute to the United States. Some were trafficked for debt bondage, including Chinese debt bondage within the country.

The PNP and the Immigration Department conducted raids every two to three months on bars and brothels, but lack of government funding limited undercover operations. In May authorities arrested and charged with procurement a foreign national who owned a club with female dancers. At year's end the defendant was free on \$15 thousand bail and was required to remain in the country while the case was under investigation. In May the Immigration Department and the PTJ sex crimes unit investigated a massage club where Colombian workers complained that the owners seized their passports. In many of the cases investigated for possible trafficking violations, defendants alleged that the purported trafficking victim could not have been trafficked because that person entered the country as a visitor and then applied for an *alternadora* visa. The holder of an *alternadora* visa is legally permitted to engage in commercial sexual activities. During the year despite opposition from the attorney general's office, the Immigration Department reinstated the *alternadora* visa.

Commercial sexual exploitation of minors continued to be a problem. Commercial sexual exploitation remained primarily an internal issue. However, perpetrators included foreigners, and there continued to be limited evidence of international trafficking networks of minors to or through the country. NGO and government efforts in prevention and education remained limited by lack of resources and coordination problems.



The law does not hold trafficking victims criminally responsible for prostitution or immigration crimes and provides for indemnification of costs of medical and psychological treatment, temporary housing, legal fees, and emotional suffering, even if the victims return to their native country.

The Ministry of Social Development continued providing shelter and other services to victims of commercial sexual exploitation, using substitute families, its own shelter, and the shelter of a nongovernmental organization it subsidized.

During the year the government worked with the International Labor Organization (ILO) on trafficking issues, including the production of pamphlets on sexual exploitation and trafficking. In May the ILO held a workshop for 40 media representatives to educate them about trafficking and the need to protect victims' identities. In October the government published its first Anti-TIP manual for police and other government officials.

#### Persons with Disabilities

The law prohibits discrimination based on physical or mental disability, but substantial discrimination continued against persons with disabilities in employment, education, access to health care, and the provision of other state services. Most public schools did not have adequate facilities for children with special needs. However, the government took some steps, including installing ramps in schools and some mainstreaming of children with disabilities, to decrease discrimination. The law mandates access to new or remodeled public buildings for persons with disabilities and requires that schools integrate children with special needs. During the year approximately 65 public schools built ramps and admitted deaf, blind, and mildly mentally-retarded children, as well as children with Down's syndrome. Children with severe physical disabilities were not included in the mainstreaming effort. Private schools built ramps to comply with the law mandating access, but very few admitted children with special needs.

The National Secretariat for Social Integration of the Disabled (SENADIS), formed in September 2004, was responsible for protecting the rights of persons with disabilities. It coordinated and provided technical assistance to government and civil society efforts to decrease discrimination against and increase inclusion of persons with disabilities. The Council for the Social Integration of the Disabled supported the secretariat and was composed of members of civil society and several ministries. The Ministry of Education was responsible for educating and training minors with disabilities over the age of four, while the Ministry of Social Development provided training to children under four.

The government ruled that as of August persons with disabilities would receive free medical treatment at all public hospitals and clinics. The Ministry of Labor was responsible for placing workers with disabilities in suitable jobs. Despite a 1999 law requiring mandatory employment of at least two percent disabled personnel, placement remained difficult due to employer reluctance to hire workers with disabilities. Persons with disabilities also tended to be paid less than employees without disabilities for performing the same job.

Panama City's building code requires that all new construction projects meant to serve the public be accessible to persons with disabilities, with fines for the public sector from \$100 (100 balboas) to \$500 (500 balboas) for noncompliance. A national law with similar requirements for new construction projects generally was not enforced, and in some cases the ramps built did not comply with the minimum legally required lengths and widths. Also, some handicapped designated parking spaces were not wide enough to allow for exit and entry of wheelchairs. The Secretariat began a campaign to increase voluntary compliance.

Awareness of disability issues increased under the Torrijos administration, and commercial establishments more regularly provided and enforced respect for handicapped parking spaces. By year's end the government was developing a national plan for addressing disability issues. However, basic amenities, such as handicapped-accessible sidewalks and bathrooms, were largely unavailable.

#### National/Racial/Ethnic Minorities

Minority groups generally have been integrated into mainstream society, but there remained problems with discrimination against blacks, indigenous people, and other minorities. Discrimination against the country's newer immigrants, especially Chinese, sometimes was overt. There were an estimated 150 thousand to 200 thousand persons of Chinese descent. Cultural differences and language difficulties hindered many Chinese immigrants from fully integrating into mainstream society. Racial slurs directed at Asians continued to be used openly among the general population, and substantial numbers of first-generation resident Chinese frequently were treated as second-class citizens. However, second and third generation Chinese were seen as distinct from recent immigrants and generally were accepted in society if they assimilated.

Along with the Chinese, Middle Eastern and Indian residents also continued to suffer from racially motivated discriminatory treatment. All three groups often worked in the country's retail trade, particularly in urban areas. Legal and illegal immigrants were accorded fewer legal protections than citizens for their trade activities. A constitutional provision reserving retail trade for Panamanian citizens was not enforced in practice; however, immigrants legally could not own their businesses as sole proprietorships and sometimes encountered bureaucratic difficulties in practicing their professions.

Racism against blacks was generally subtle, and often connected with admission or entry to restaurants, clubs or other commercial establishments. Blacks comprised at least 14 percent of the population, but were underrepresented in the highest positions of political and economic power. Many blacks remained clustered in the economically depressed province of Colon and poorer neighborhoods of Panama City.

The country's lighter skinned elite discriminated against citizens with darker skin through preferential hiring practices in the private sector and manipulation of government resources in the public sector.

Racial discrimination against minority ethnic groups was evident in the workplace. In general, lighter skinned persons were represented disproportionately in management positions and jobs that required dealing with the public, such as bank tellers and receptionists. In response to complaints about discrimination, in March the president formed the Black Ethnic Commission, with a one year mandate to develop a plan for more effective inclusion of blacks in all aspects of society.

### Indigenous People

The law affords indigenous people the same political and legal rights as other citizens, protects their ethnic identity and native languages and requires the government to provide bilingual literacy programs in indigenous communities. Indigenous people, who comprise approximately 9.5 percent of the population, have the legal right to take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. There were indigenous reserves, governed by tribal chiefs, for five of the country's seven indigenous groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna. The much smaller Bri-Bri and Naso tribes, residing near the border with Costa Rica, did not have officially recognized enclaves.

The Ministry of Government and Justice maintained an Office of Indigenous Policy. Although federal law is the ultimate authority on indigenous reserves, local groups maintained considerable autonomy. The government recognized traditional Kuna marriage rites as the equivalent of a civil ceremony. Laws protect intellectual property rights of indigenous artwork and establish regulations for artisan fairs. Despite legal protection and formal equality, indigenous people generally had higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. The poverty rate among the indigenous population was estimated at between 90 and 98 percent, depending on the group.

With the exception of the Kuna Yala, whose leaders enforced their territorial boundaries and maintained their cultural integrity, indigenous groups had not succeeded in using their autonomy to preserve their culture or develop economic independence.

Because many indigenous persons did not have an adequate command of Spanish, they often misunderstood their rights and failed to employ legal channels when threatened. In addition, the government did not provide legal tribunals in indigenous areas and failed to attend to specific indigenous property and resource use rights problems: the Kuna of *comarca* Madugandi complained of encroachment by settlers who were deforesting the *comarca*. In October residents of the Kuna Yala reservation discovered 70 acres of their forest had been cut down by loggers. The Ngobe were under threat due to the isolation of their reserves, encroachment by settlers, and generalized poverty. A report by the United Nations Development Fund found that over 45 percent of the population in the Ngobe Bugle reservation was illiterate. The Embera-Wounaan struggled to protect their intellectual property in medicinal plants.

Social and employment discrimination against indigenous people was widespread. Employers frequently did not afford indigenous workers basic rights provided under labor laws, such as minimum wage, social security benefits, termination pay, and job security. Indigenous laborers in the country's sugar, coffee, and banana plantations continued to work under worse conditions than their nonindigenous counterparts. Indigenous migrant workers were unlikely to be provided with quality housing or food, and their children were much more likely to perform long hours of heavy farm labor than nonindigenous children (see section 6.d.).

### Other Societal Abuses and Discrimination

A 1920 law prohibiting homosexuality was not enforced. The law prohibits discrimination against persons with HIV/AIDS in employment and education, but discrimination continued to be common due to ignorance of the law and of HIV/AIDS. The government provided treatment for HIV/AIDS in at least 80 percent of cases through the Ministry of Health and Social Security, but the government had problems maintaining retroviral medication in stock. The New Men and Women of Panama, a gay rights group, however, averred that employers discriminated against openly gay people. There were no reported incidents of harassment or other abuse against the approximately 200 persons who participated in a gay pride march on June 24 in Panama City.

### Section 6 Worker Rights

#### a. The Right of Association

The law recognizes the right of private sector workers to form and join unions of their choice, subject to the union's registration by the government. The law sets the minimum size of private sector unions at 40 workers and permits one union per establishment. Umbrella unions based on skill groups may also operate in the same establishment. The law provides that if the government does not respond to a registration application within 15 days, the union automatically gains recognition with all rights and privileges under the law. Union associations complained that such automatic registration did not function in practice. Employees of small companies may organize under a larger umbrella group of employees with similar skills and form a union as long as they number at least 40. The law also allows labor leaders to keep their union positions if fired from their jobs.

The International Labor Organization (ILO) Committee of Experts 2005 report requested that the government amend national legislation requiring a minimum of 50 public servants to establish a public servants union to reduce the number of public servants required to establish such organizations.

Approximately 13 percent of the total labor force was organized.

In October the government agreed to pay \$800 thousand (800 thousand balboas) to 270 public sector electricity and telecommunications workers whose dismissal the Inter-American Court of Human Rights had found improper in a 2001 ruling.

The government and political parties exercised political, ideological or financial influence over some unions.

#### b. The Right to Organize and Bargain Collectively

The law provides all private sector and most public sector workers with the right to organize and bargain collectively, and private worker unions exercised this right widely. The law establishes a conciliation section in the Ministry of Labor to resolve private labor complaints and provides a procedure for mediation.

Public workers had an association consisting of 19 public worker associations, but this association did not strike or negotiate collective bargaining agreements because only approximately 8 percent of government workers were protected from arbitrary dismissal as certified career employees. At year's end the ombudsman's office reported that it had received over 200 complaints of unjustified dismissal from public employees. The law grants some public employees a limited right to strike, except for those in areas vital to public welfare and security such as the police and health workers. At least 25 percent of the workforce must continue to work to provide minimum service in the case of administrative workers, and 50 percent must continue to provide service in the case of workers providing "essential public services," such as transportation, firefighting, telecommunications, and mail. In its 2005 report, the ILO Committee of Experts noted that inclusion of transport workers under the law regarding limitation on strikes in essential services sectors goes beyond essential services in the strict sense of the term.

The law prohibits federations and confederations from calling strikes. In its 2005 report, the ILO Committee of Experts requested that the government take measures to amend this legislation with a view to bringing it into line with the principle that federations and confederations should enjoy the right to strike.

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

Employers in the retail industry commonly hired temporary workers to circumvent labor code requirements for permanent workers. In lower-skilled service jobs, employers often hired employees under three-month contracts for several years, sometimes sending such employees home for a month and subsequently rehired them. Employers also circumvented the law requiring a two-week notice for discharges by laying off some workers 1 week before a holiday. In addition, due to labor laws that made it difficult to fire employees who had worked 2 years or more, it was not uncommon to hire workers for one year and 11 months and subsequently lay them off.

Employers, following a 2000 supreme court ruling, increasingly negotiated directly with unorganized workers before unions formed or had a majority presence in the workplace. According to ministry of labor data, between 1990 and 2005, 593 of 916 collective agreements were negotiated directly between employers and workers.

Unions and collective bargaining are permitted in export processing zones (EPZs). In its 2005 report, the ILO Committee of Experts asked the government to confirm whether workers in export processing zones have the right to strike. A strike is considered legal only after 35 workdays of conciliation are exhausted; otherwise, striking workers can be fined or fired. The law regarding EPZs does not mention arbitration or specify procedures to resolve labor disputes in the courts.

The same labor laws governing EPZs applied to call centers. There were approximately 833 EPZ employees and several times more call center employees. Minimum wage provisions applied in the EPZs and call centers, and wages were generally higher in the call centers than in the economy as a whole. In the EPZs, workers could agree to take the law's compulsory Sunday rest period on another day and to overtime compensation based on a straight 25 percent differential, compared to a complex and costlier system under the Labor Code.

In July the government created a special economic area in the former Howard Air Force Base Area. The law establishing the area contains provisions intended to facilitate greater labor flexibility along the lines of the minimum wage and required rest day provisions employed in the EPZs. Workers in this special economic area had the right to strike, organize and engage in collective bargaining.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by adults and children, and there were no reports that such practices occurred.

#### d. Prohibition of Child Labor and Minimum Age for Employment

The law contains provisions to prevent exploitation of children in the workplace. The Ministry of Labor has responsibility for enforcement. Although the government allocated inadequate staffing and funding, the ministry was reasonably effective in enforcing the law regarding child labor in the formal sector. By August the ministry had performed 272 inspections of businesses to ensure compliance with child labor regulations. Child labor in agriculture and in the informal sector of the economy, however, remained a problem.

The law prohibits the employment of children under 14 years of age, with the exception that children age 12 and over are permitted to perform light farm work for up to 6 hours per day that does not interfere with their school hours. The law prohibits the employment of children under age 15 if the child has not completed primary school. However, child labor was a problem in some provinces and some economic sectors.

Children under age 18 legally cannot work more than 6 hours per day and cannot work at night. The law includes a prohibition on employment of minors under the age of 18 in hazardous labor. The Ministry of Labor enforced these provisions in response to complaints

and could order the termination of unauthorized employment. The government acknowledged that it was unable to enforce some child labor provisions in rural areas, and it conducted only limited inspections due to insufficient staff (see section 6.e.).

Child labor violations occurred most frequently in rural areas, especially during the harvest of sugar cane, coffee, bananas, melons, and tomatoes. Farm owners often paid according to the amount harvested, leading many laborers to bring their young children to the fields to help with the work.

The problem of child labor in agricultural areas fell most heavily on indigenous families, who often migrated out of their isolated reserves in search of paid work (see section 5). These frequent migrations interrupted schooling.

Child domestic labor was a problem. According to the 2000 census, more than 6 thousand children between the ages of 10 and 17 worked as domestic servants. Government enforcement of domestic labor violations was traditionally weak because the place of work is a private residence.

Many children continued to work in the informal sector of the economy as street vendors, shoe shiners, cleaning car windows, washing cars, bagging groceries in supermarkets, picking trash, or simply begging for money. A 2005 ILO survey estimated 52 thousand children between the ages of 5 and 17 worked in the informal sector. The government estimated there were 15 thousand children employed or working on their own informally in urban areas of the country. Approximately 45 percent of these children did not attend school. The government, the ILO, and the NGO *Casa Esperanza* funded a campaign of TV commercials and advertising to stop child labor.

*Casa Esperanza* operated 47 centers throughout the country to reduce child labor, and through its DESTINO project operated 7 schools for children who had left school to work.

#### e. Acceptable Conditions of Work

The law establishes minimum wage rates for specific regions and for most categories of labor, excluding public sector workers. The minimum wage ranged from \$0.82 (0.82 balboas) to \$1.56 (1.56 balboas) per hour, depending on the region and sector. This wage did not provide a decent standard of living for a worker and family. Most workers formally employed in urban areas earned the minimum wage or more. Approximately 40 percent of the population, however, worked in the large informal sector and earned far below the minimum wage. This was particularly the case in most rural areas, where unskilled laborers earned from \$3.00 to \$6.00 (3 to 6 balboas) per day without benefits. The government did not enforce labor laws in most rural areas.

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

The Ministry of Labor is responsible for setting and enforcing health and safety standards and generally did so. The Ministry of Labor conducted 2,223 workplace inspections to verify compliance with labor laws.

Although inspectors from the Ministry of Labor and the occupational health section of the Social Security Administration conducted periodic inspections of hazardous employment sites and responded to complaints, the government failed to enforce adequately health and safety standards. Construction workers and their employers were notoriously lax about conforming to basic safety measures. Workers have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They generally were not allowed to do so if the threat was not immediate, but could request a health and safety inspection to determine the extent and nature of the hazard.

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