

Panama Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998
U.S. Department of State

PANAMA

Panama is a representative democracy with an elected executive composed of a president and two vice presidents, an elected 72-member legislature, and an appointed judiciary. President Ernesto Perez Balladares, elected in May 1994, is the chief executive. The judiciary is independent, but subject to corruption and political manipulation. Panama has had no military forces since 1989. In 1994 a constitutional amendment formally abolished a standing military, although it contained a provision for the temporary formation of a "special police force" to protect the borders in case of a "threat of external aggression." The Panamanian National Police (PNP), under the Ministry of Government and Justice, are responsible for law enforcement. The Judicial Technical Police (PTJ), under the judicial branch's Public Ministry, perform criminal investigations in support of public prosecutors. National Maritime Service and National Air Service forces also perform police functions along the coasts and at the international airport, respectively. Credible reports of corruption within both the PNP and PTJ contributed to some police dismissals. Police forces respond to civilian authority, have civilian directors, and have internal review procedures to deal with police misconduct. There were reports of instances of abuse by some members of the security forces.

The service-oriented economy uses the U.S. dollar as currency, called the Balboa. Gross domestic product grew by 2.5 percent in real terms in 1996, and its growth was projected to reach 3.5 percent in 1997. The Ministry of Economic Planning expects accelerating growth through the year 2000 as the effects of economic liberalization and the Panama Canal transfer become evident. Poverty persists, with large disparities between rich and poor, and income distribution remains skewed. Unemployment is estimated at 14 percent.

The Government generally respected the human rights of its citizens, but there continued to be serious problems in several areas. Police and prison guards used excessive force against detainees and prisoners. Despite some modest improvements, overall prison conditions remained poor, with frequent outbreaks of internal prison violence. Prisoners were subject to prolonged pretrial detention; the criminal justice system was inefficient and often corrupt. In one high-profile case, Gerardo Gonzalez, president of the governing party, used improper influence to compromise the impartiality of trial proceedings against a former director of the PTJ, Jaime Abad, in order to affect the outcome of the separate trial of Gonzalez's son on murder charges. There were instances of illegal searches and political pressure on the media. The Government was severely criticized when it refused to renew the work permit of a prominent foreign journalist. The United Nations High Commissioner for Refugees protested government repatriation in April of 200 Colombians, some of whom entered Panama fleeing violence in border areas.

Discrimination against women persists, and indigenous people are severely disadvantaged. Violence against women remained a serious problem. Worker rights are limited in export processing zones. The Government continued to prosecute a small number of officials responsible for abuses during the years of dictatorship from 1968 to 1989. The legislature created the office of human rights ombudsman in December 1996 and elected the first incumbent in a fair and open process. After an initial delay in receiving funds, the ombudsman's office was expected to open in January 1998.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political killings.

The authorities dismissed three PNP guards and ordered them to stand trial for the beating death of detainee Jose Luis Alvarado at the Tinajitas prison. After Alvarado got into an argument with the guards on the evening of March

6, witnesses reported that the officers handcuffed him to a chain link fence and beat him for several hours until he died.

The PNP initiated an investigation into the shooting death of Ngobe-Bugle tribe member Juan Santos Chobra during a June 17 confrontation between squatters and police officers attempting to remove them from private land. According to the PNP, a police officer fired in self-defense when Chobra attacked him with a machete; protesters said that the 65-year-old Chobra was a victim of police aggression. In retaliation, the protesters overpowered a second PNP officer, bound and tortured him for several hours, and wounded him in the head with a machete before he could be rescued.

On August 3, a jury convicted a former PTJ agent of murder in the January 19, 1994, shooting death of university student Erick Eloy Diaz. The agent shot Diaz during a traffic stop. On March 3, a jury convicted two former members of the public security forces for the robbery and murder of two Colombian drug traffickers in November 1991.

The Government continued to prosecute a small number of officials for abuses committed during the years of dictatorship, from 1968 to 1989. In February a judge sentenced former Panamanian Defense Forces (PDF) captain Jorge Eliecer Bernal and two other men to 20 years' imprisonment for the 1987 murder of businessman Manuel Lopez Vasquez. On February 21, Peru extradited to Panama ex-PDF major Heraclides Sucre, who was previously convicted in absentia and sentenced to 20 years' imprisonment for his role in the 1989 executions of 11 PDF participants in an abortive coup attempt against then-PDF Commander General Manuel Noriega. A jury on March 2 acquitted five former PDF officers for the kidnaping and attempted murder of opposition activist Mauro Zuniga in 1985, despite Zuniga having personally identified his attackers at the trial.

In November a jury acquitted Pedro Miguel Gonzalez, son of Legislative Assembly president Gerardo Gonzalez (also president of the ruling Democratic Revolutionary Party--PRD), and two other defendants, Amado Sanchez Ortega and Roberto Garrido, who were accused of the politically motivated 1992 killing of U.S. serviceman corporal Zak Hernandez and intent to kill U.S. army sergeant Ronald Terrell Marshall. Gonzalez was freed; Sanchez must still serve a 7-year prison term for a prior murder conviction; and Garrido had still not been located at year's end. Gonzalez was acquitted despite clear evidence of his guilt and in the wake of improper actions by his father in this case and a separate case against a police official, Jaime Abad (see Section 1.e.). Gonzalez's trial was subject to political interference, manipulation, and intimidation of the judge and jury.

In what was presented as an effort to remedy the slow pace of criminal justice proceedings, the ruling party attempted to modify a judicial reform bill sent to the Legislative Assembly by the Attorney General. PRD legislators inserted a "veiled amnesty" clause, which would have closed all criminal cases open more than 5 years without the accused being brought to trial. The reform would have freed human rights violators, common criminals, and even suspected murderers, and would have ended proceedings against numerous fugitives from justice (such as Roberto Garrido). Both the Attorney General and the secretary general of the Supreme Court denounced the modified bill as unconstitutional, and the PRD subsequently withdrew it from consideration as the Assembly session concluded in June.

Several Colombians residing in Panama were reportedly executed in the Darien region by Colombian paramilitary forces during cross-border incursions in April and June. The paramilitary forces accused the victims of being sympathizers of a Colombian guerrilla movement. Panamanian authorities have made no arrests in connection with the killings, but temporarily reinforced PNP units in the Darien following the June incident. There were reports of similar incidents in November; reputed Colombian guerrillas or members of a paramilitary force killed a police officer and terrorized a small town for several hours.

b. Disappearance

There were no reports of politically motivated disappearances.

A Colombian paramilitary group in June reportedly kidnaped two Colombians who had sought refuge in the Darien community of Yape. Darien business owner Antonio Ramos, kidnaped in August 1996 by Colombian guerrillas, was released unharmed in May after his family paid an unspecified ransom. Panamanian authorities state that they are

hampered in enforcing the law in Darien by the region's remoteness, general lawlessness, and insufficient resources for the police.

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

The Constitution prohibits use of measures that could harm the physical, mental, or moral integrity of prisoners or detainees. The public security forces generally performed in a professional and restrained manner, although there were reports of excessive use of force or inhuman punishment, particularly against prison inmates. There also were reports that police used physical violence to control detainees during the initial arrest, interrogation, and holding phases.

On June 3 President Perez Balladares signed a new Organic Law for the National Police, passed by the Legislative Assembly in April. The new law supersedes the old "Law 20," dating from the Noriega era, and a 1990 presidential decree as the legal basis for the existence and operations of the PNP. The law includes specific guidelines for PNP use of force, including deadly force; sets up norms for selection and promotion of officers, contributing to PNP professionalization; and seeks to depoliticize the PNP by prohibiting officers' participation in certain political activities. It requires that police officers respect human rights, and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior. The law stipulates that the PNP director must be a civilian "noncareerist," while the deputy director must be chosen from among career police ranks.

Corruption among police officers continued to be a problem, but PNP and PTJ directors enforced strict disciplinary measures against officers shown to be involved in illicit activities. They arrested a PTJ documents expert in July as part of a medical diploma falsification ring and fired six other PTJ agents in April for connections to organized crime. Three PNP officers were dismissed in February for robbery, and PNP director Sosa admitted in February that some members of the transit police regularly extort bribes from motorists. In February the authorities formally charged seven former PTJ agents with the August 1995 kidnaping and robbery of a Colon Free Zone merchant. 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 and administrative authority to open internal investigations which, upon completion, go to their respective inspectors general for submission to review boards. The review boards, in turn, recommend to the service's director the appropriate action; the director has the final authority to determine the disposition of each case. Penalties include reduction in rank, dismissal, and in severe cases, criminal prosecution. Through July the PNP opened 324 investigations into alleged misconduct by police; of the 202 investigations completed, 11 resulted in dismissals, 10 in other disciplinary action, and 9 in reprimands. The other cases were either dismissed administratively or resolved in favor of the investigated officer.

Despite efforts to introduce some prison reforms, prison conditions throughout the country remained extremely poor and a threat to prisoners' health. Most prisons are dilapidated and overcrowded. Medical screening and care is inadequate, with tuberculosis and other communicable diseases common among the prison population. Frequent prison riots and gang battles injured or killed numerous inmates. Guards often used buckshot and tear gas, fired at close range, to quell disturbances or halt escape attempts. Riots were particularly common and severe at La Joya prison, where most high-risk inmates from the old La Modelo prison were transferred in late 1996. In February the Government announced plans to build a new 1,000-inmate facility for medium- and maximum-security inmates adjacent to La Joya. Mounting frustration with La Joya's security problems prompted the National Department of Corrections (DNC) to fire the prison director in July and place the deputy director on indefinite administrative leave. Vice Minister of Government and Justice Martin Torrijos said that the riots were not the DNC's fault, but were due to overcrowding caused by the slow pace of moving criminal cases through the courts.

The authorities took strong disciplinary measures against some officers implicated in abuses. The Government fired three PNP guards and initiated criminal proceedings against them for the March beating death of Jose Luis Alvarado at Tinajitas prison (see Section 1.a.). The Government dismissed six civilian guards from the DNC and opened a criminal investigation after the guards severely beat inmate Carlos Cisneros at La Joya prison April 7. The Attorney General's office announced in March that it would ask the courts to summon to trial 11 former PNP guards for the July 27, 1996 mass beating of inmates at La Modelo prison. The incident, which was filmed by a television news crew and broadcast nationwide, prompted the Government to evacuate La Modelo and demolish it in December 1996.

In other prison beating incidents, the authorities publicly denied charges of excessive use of force. At El Renacer prison on March 2, PNP guards recaptured two prisoners after an abortive escape attempt. The guards reportedly stripped the two men, chained them to a fence, and beat them. Witnesses asserted that the naked men were left chained and repeatedly doused with cold water by guards overnight. PNP director Jose Luis Sosa publicly denied that the beating had occurred. DNC authorities claimed to have investigated the incident and turned the report over to the Attorney General's office, but the Attorney General said his office could not find the report in question. The PNP lieutenant in command of the El Renacer guard force, however, was subsequently transferred.

In a July 31 incident at La Joyita prison, a large group of foreign inmates alleged that they were attacked by guards while staging a peaceful hunger strike to protest prison conditions. According to the inmates, the guards hit and kicked them, and set attack dogs on them while they were seated and handcuffed. Diplomatic officials observed numerous severe bruises and bite marks on the prisoners. A PNP spokesman insisted that the prisoners had attacked the guards.

The DNC largely depends on PNP officers, inadequately trained for prison duty, to supply its guard force. Civilian correction officers or "custodians" handle inmates within La Joya, El Renacer, and the central women's prison (which uses only female guards). The DNC has authority to discipline prison guards with criminal or civil sanctions. Five DNC custodians were arrested in March after investigators accused them of complicity in the escape from La Joya of a notorious Mexican drug trafficker. Following the beating death of Jose Luis Alvarado (see Section 1.c.), legislator Denis Arce of the Assembly's human rights commission formally proposed creation of a permanent bureau within the PNP to train officers in human rights issues.

At the new La Joyita facility for minimum-security inmates, the DNC inaugurated several new prisoner work and rehabilitation programs, including a bakery, brick-making facility, and agricultural cultivation. However, these programs employed less than 20 percent of La Joyita's 1,233 inmates, including only 2 of more than 300 foreign inmates. Foreign financial assistance allowed the DNC to initiate a program of medical screening for all new inmates, but did not include improved regular care for the existing inmate population.

Following instances of hostage-taking in September, the President ordered the PNP to replace the DNC and take control of two of the largest prisons, La Joya and La Joyita. Despite protests from human rights groups and opposition parties that replacing the DNC with the police was a return to bad former practice, the Government justified the policy by displaying over 2,000 knives allegedly confiscated from prisoners. Following the PNP takeover at the two prisons, inmates' visitation rights were seriously limited, along with the right to receive gifts from visitors. Overall conditions in the prisons did not change substantially.

The number of trained DNC guards in other national prisons is inadequate to ensure proper security, given the large number of prisoners and generally overcrowded conditions. The PNP personnel assigned to La Joya and La Joyita have no formal training as prison guards. The first formal training class of approximately 140 corrections officers graduated from the PNP Police Academy. In its 1996 budget request, the DNC asked for funding for 277 new guard positions, but none were approved. Effective prison management also is hampered by the lack of consistent national operating guidelines; individual prison directors are free to establish their own procedures without effective central control or oversight. Given the high turnover rate among directors, this system leads to internal administrative confusion and increases directors' susceptibility to corruption and abuse of authority.

The prison situation in Colon remained grim, as did conditions on Coiba Island Penal Colony. In an effort to alleviate problems in La Joya and La Joyita, the authorities transferred many prisoners to Coiba. Many of them have not yet been tried, and the distance from their legal counsel is a serious problem. 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. Geographic isolation and lack of communications have separated detainees from their attorneys and caused many to miss trials. Escapes from Coiba are reported common. Although the Government began reducing the number of prisoners at Coiba prior to closing it, the recent influx caused the inmate population to once again increase. The Government acknowledges it must keep Coiba open, but as yet has made no provisions to upgrade or maintain the facility.

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

d. Arbitrary Arrest, Detention, or Exile

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

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

Extended pretrial detention continued as 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 DNC statistics, pretrial detainees composed approximately 65 percent of the prison population as of July, down from 71 percent in 1996 and 78 percent in 1995. The average period of pretrial custody was 16 months; 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.

In November the Legislative Assembly passed a law intended to relieve pressure on the clogged prison system by limiting pretrial detention. The new law requires judicial authorities to replace pretrial detention with an alternative measure, such as house arrest, for prisoners whose time in jail awaiting trial exceeds the minimum penalty for the crimes they allegedly committed.

In March Supreme Court magistrate Aura de Villalaz stated that the use of preventive detention should be reserved only for the most dangerous suspects. With broad public and media perception of judicial corruption, however, judges are afraid to impose bail or release suspects on their own recognizance; judges apparently fear being subjected to accusations of corruption or of endangering public safety. In June Supreme Court secretary general Carlos Cuestas said that the systematic application of preventive detention reflected a "repressive judicial culture." The Constitution prohibits exile; there were no reports of forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary is susceptible to corruption and outside influence, including from other branches of government. The President appoints nine Supreme Court magistrates to 10-year terms, subject to Legislative Assembly confirmation. The Supreme Court magistrates appoint appellate (Superior Tribunal) judges, who, in turn, appoint circuit and municipal court judges in their respective jurisdictions. The Attorney General, who heads the Public Ministry jointly with the Solicitor General, appoints the superior and circuit-level prosecutors. 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.

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, officials 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.

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 orally with the accused present, but with little new evidence presented beyond that in the case file compiled by the public prosecutor. 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 410 cases per attorney in 1995. Only one new public defender has been hired since 1992, making a total of 36 nationwide, while the caseload increased 74 percent since then. This heavy workload undermined the quality of representation, with many prisoners meeting their public defender for the first time on the day of trial.

The right to a fair and independent trial was seriously compromised in the case of Jaime Abad, former director of the PTJ. Based on dubious evidence, PRD president Gerardo Gonzalez accused Abad of hiding or manipulating ballistics test results in the investigation of Gonzalez's son, Pedro Miguel, for the 1992 murder of U.S. serviceman Zak Hernandez (see Section 1.a.). While Abad was originally charged with a misdemeanor, the charges against him were increased to felony counts by the judge at his preliminary hearing on January 15 after Gonzalez closeted himself with the judge in her chambers for 50 minutes prior to the hearing. Despite a constitutional provision for presumption of innocence, the judge publicly stated prior to the preliminary hearing that the articles of the Penal Code Abad was charged with violating "contain the conduct carried out by Abad." In the months leading up to his trial, Abad and his attorneys were subjected to repeated telephone threats and harassment, which the Government did not investigate. Concerned for his the safety of his attorneys, Abad released them just prior to his trial and was consequently represented by an ill-prepared public defender.

During Abad's trial in June, there were strong suggestions of collusion between the judge, the government prosecutor, and the independent prosecutor hired by Gonzalez (all with close personal ties to the PRD). The judge summoned all witnesses requested by the prosecution, while denying all but one of those requested by Abad; that defense witness received a threatening visit at home from a prosecution witness and subsequently declined to testify. In reviewing the case, the local Center for Human Rights Investigation and Legal Assistance (CIDHS) stated in a press release that "Jaime Abad... faces a judicial process in which there are clear indicators that it has been the subject of manipulation by interests of dubious origin." The CIDHS further concluded that Gonzalez used and abused his political power to manipulate the judicial process against Abad in order to help his son Pedro Miguel Gonzalez. The trial concluded on June 25. In August Abad's employer was harassed when a story about the case appeared in a foreign newspaper. The employer, faced with continuing government harassment, dismissed Abad. In November the judge in the Abad case, the same judge who presided over the Gonzalez trial, excused herself from the case and a new judge was assigned. On December 15, the new judge found Abad guilty and sentenced him to 3 years in prison, but reduced the sentence to a \$1,500 fine. Abad said that he would refuse to pay the fine.

A small number of lower court judges were disciplined during the year on charges of corruption or administrative irregularities. In May Attorney General Jose A. Sossa asked Supreme Court president Arturo Hoyos to investigate four judges for possible corruption, after the judges dismissed charges in cases that the Attorney General's office had asked be brought to trial. Hoyos declined to investigate the judges, saying that the Attorney General had failed to provide sufficient evidence of wrongdoing to warrant a formal inquiry. Attorney General Sossa also denounced trial lawyers for filing spurious motions and failing to show up for hearings in order intentionally to delay criminal proceedings against their clients.

There was no progress in resolving the impeachment case against former Supreme Court magistrate Jose Manuel Faundes. The Legislative Assembly conducted impeachment proceedings against Faundes in late 1996 on charges that he abused his authority and accepted cash payments in exchange for lenient sentencing and treatment of certain prisoners, including narcotics traffickers. However, the Assembly could not muster the two-thirds majority vote constitutionally required for impeachment. As a result, ruling party legislators asked the Supreme Court to declare the two-thirds clause unconstitutional in order to be able to impeach Faundes by a simple majority vote. All nine sitting Supreme Court magistrates subsequently recused themselves from the case, leaving the decision in the hands of their alternates who have given no indication of when they will render a decision. In late 1997, some of the alternate judges recused themselves as well. Government opponents accused the President of unduly influencing the Supreme Court in this case.

There were no reports of political prisoners.

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

The Constitution provides for the inviolability of the home, private papers, and telephonic communications. The authorities may not enter private residences except with the owner's permission, or by written order from the appropriate authority for specific purposes. These may include entry to assist the victims of crime or disaster, or to conduct lawful health and safety inspections. The authorities may not examine private papers and correspondence, except as properly authorized by competent legal authority and in the presence of the owner, a family member, or two neighbors. The Government generally respected these rights. However, there were complaints that in some cases police failed to follow legal requirements and conducted unauthorized searches of private residences. Although the Constitution prohibits all wiretapping, the Government maintains that wiretapping with judicial approval is legal. Under the guidelines established by antinarcotics legislation passed in July 1994, the Public Ministry may engage in undercover operations, including "videotaping and recording of conversations and telephonic communications." The Supreme Court has not issued a definitive ruling on whether wiretapping is constitutional and, if so, under what circumstances.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. However, in a case that provoked a wave of domestic and international criticism, the Government tried to expel Peruvian journalist Gustavo Gorriti, associate editor of the daily newspaper La Prensa. In August the Labor Minister refused to renew Gorriti's work permit, citing a 1978 law that requires directors and deputy directors of media outlets to be Panamanian citizens. According to media representatives, the Government's true motive for expelling Gorriti was the embarrassment that his investigative reports caused relatives and close associates of President Perez Balladares.

The decision to expel Gorriti was denounced by local and international media and human rights organizations, prominent authors John Le Carre and Mario Vargas Llosa, and the new human rights ombudsman, Italo Antinori. All condemned the move as an attack on the freedom of the press and called on the President to reverse the decision to deport Gorriti. On August 18, the Inter-American Commission on Human Rights (IACHR) issued a request for precautionary measures calling on the Government to suspend deportation proceedings against Gorriti until the IACHR could rule on the full complaint. The Government suspended its September deportation order pending court resolution of legal appeals by La Prensa. In October the Government agreed to allow Gorriti to remain in the country and promised to seek revocation of the 1978 law; La Prensa agreed to change Gorriti's title. At year's end, however, the 1978 law remained in effect.

There is an active and often adversarial press and a broad range of electronic and print media outlets, including foreign television and radio broadcasts, cable stations, and newspapers. Six national daily newspapers, 3 commercial television stations, 2 educational television stations, and over 95 radio stations provide a broad choice of informational sources; all are privately or institutionally owned. While many media outlets took identifiable editorial positions, the media carried a wide variety of political commentaries and other perspectives, both local and foreign. There was, however, a noticeable trend toward concentration of control of television outlets in the hands of close

relatives and associates of the President. The President's cousin, previous owner of one of the three commercial television stations, acquired control of a second, and also bought a majority stake in the principal cable television provider. The latter acquisition coincided with a sudden decision by the Government to cancel a previously granted operating concession to a foreign firm to offer cable service.

Panamanian and foreign journalists worked and traveled freely throughout the country. An employee of the Attorney General's office was administratively sanctioned in February after he hit and kicked two television cameramen attempting to film a news story. Also in February, the president of the Panamanian Society of Journalists accused police agents of intimidation tactics when the agents took photographs of journalists emerging from a press conference called by lawyers representing a prominent Colombian drug trafficking suspect. PNP Director Sosa later insisted that the incident never occurred. In August the Government brought to trial a former PNP officer accused of attacking and injuring a television cameraman, and damaging his equipment, when the cameraman tried to film a police operation in 1993.

Under "gag laws" dating from the military dictatorship, the Government has legal authority to prosecute media owners and reporters for criminal libel and calumny. A special executive branch authority has discretionary powers to administer the libel laws, which provide for fines and up to 2 years in prison. Under the statute, opinions, comments, or criticism of government officials acting in their official capacity are specifically exempted from libel prosecution, but a section of the law allows for the immediate discipline of journalists who show "disrespect" for the office of certain government officials. This law was not employed during 1997.

During the year numerous groups representing press interests called on the Government to eliminate the gag laws as inconsistent with democratic freedom of expression. Addressing the Inter-American Press Association meeting, President Perez Balladares said that the prospect of sending a journalist to jail for carrying out his proper social role was "inadmissible." The President said that his Government would guarantee freedom of expression, and promised to introduce legislation to decriminalize the libel and calumny clauses of the gag laws. However, no such action was initiated in the legislative session.

In March a superior court turned down an appeal by President Perez Balladares contesting an October 1996 lower court ruling that absolved an associate director of La Prensa of libel charges. The President originally brought the charges over remarks in a November 1993 column about PRD party leaders, including Perez Balladares. In February a superior court upheld the right of La Prensa employees to sue the Government for civil damages stemming from the forced closure of the newspaper by the Noriega regime from February 1988 to December 1989.

The press laws provide for the establishment of a censorship board. There were no reports that the board took any formal restrictive actions, although its director, Eurindia Cordoba de Rodriguez, publicly warned in July that the board was monitoring radio transmissions and could fine stations that violate norms against vulgarity and profanity. The law provides for academic freedom, which was generally respected in both public and private universities. However, in July officials at the University of Panama took steps to silence two prominent professors who publicly alleged corrupt practices at the university and called on the national comptroller's office to conduct an audit. One of the professors also denounced intimidating pressure tactics by the university administration to oblige employees to back efforts by the university rector to get himself reelected. University officials initiated disciplinary proceedings against the two professors that could lead to their expulsion, under provisions of the university code of ethics which prohibits employees from making "insulting" or "destructive" criticisms to the press. In a letter to the university rector, published in local media, Human Rights Watch/Americas protested the alleged persecution of the two professors and admonished the rector to suspend the disciplinary actions immediately. New human rights ombudsman Italo Antinori also denounced the measures as a clear attack on academic freedom.

b. Freedom of Peaceful Assembly and Association

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

Overall, police response to public protests proved restrained and professional, despite what was frequently great provocation from unruly and violent demonstrators. Police showed restraint while monitoring very large protest marches during the year by civil servants and teachers. Academic authorities temporarily closed several high schools

after protesting students closed major streets and vandalized public property. Numerous groups criticized the police for excessive use of force on August 13, when police used rubber bullets and tear gas to break up a protest in front of the U.S. embassy after protesters began throwing objects at the building. One protester had a finger severed by a rubber bullet; the police claimed that the protester had grabbed the muzzle of a policeman's weapon just as it discharged.

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. In February the Government filed criminal charges against a pastor and 20 other local members of the U.S.-based "Children of God" sect on charges of physical and sexual abuse of sect members' children. Also in February the general congress of Kuna Yala, governing body of Kuna indigenous tribes in the region of San Blas, passed a resolution affirming the official status of traditional beliefs and prohibiting the entrance of new religious sects beyond those already established in the area. Government officials discounted the resolution, and said that it was unconstitutional and would not be enforced.

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. Panama is a member of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol and is a party to the 1984 Cartagena Declaration. In April the Government provided first asylum (including food, clothing, and medical care) to approximately 200 Colombians who had entered the Darien region fleeing violence by paramilitary and guerrilla groups in their home regions. Representatives of the U.N. High Commissioner for Refugees (UNHCR), concerned about the repatriation of a previous group of Colombians in November 1996, arrived in Panama in response to the situation. They received assurances from the Minister of Government and Justice that no precipitous action would be taken to return the Colombians, and that the UNHCR would have access to them. Shortly thereafter, however, the Government repatriated the Colombians in conjunction with the Government of Colombia, and the UNHCR was not permitted to interview group members prior to the Government's action. The Government maintained that the repatriation was completely voluntary. A UNHCR representative was later able to locate and interview some Colombians who fled into the jungle to escape the repatriation, as well as PNP officers who assisted in the operation. Based on those interviews, the UNHCR determined that the repatriation was a forcible return, and U.N. High Commissioner Sadako Ogata sent a formal protest letter to President Perez Balladares. Several UNHCR member countries also protested on UNHCR's behalf, and the Government's action was criticized by Human Rights Watch and Amnesty International.

The Government maintains that it did nothing improper in repatriating the Colombians. The Government insists that it is qualified on its own to determine who is entitled to refugee status and that the 1951 Convention and the 1967 Protocol were not applicable because the Colombians were not fleeing persecution by their government. The Government also rejected the applicability of the 1984 Cartagena Declaration, asserting that it is not a formal treaty and therefore does not have the force of law. The Government said that it did not consider that a situation of generalized violence existed in Colombia from which displaced persons were fleeing. Following the April repatriation, the UNHCR entered into discussions with the Government to draft a contingency plan for the possible future entry of large groups of Colombians. As of mid-August, UNHCR representatives reported that they had advanced on some points in their talks with the Government, but that significant differences remain over the legal framework for UNHCR involvement.

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

Citizens have this right and last exercised it in the 1994 general elections. The Constitution provides for a representative democracy with direct popular election by secret ballot of the President, two vice presidents, legislators, and local representatives every 5 years. While the Constitution provides for independent legislative and judicial branches, in practice the executive dominates. The independent National Electoral Tribunal arranges and supervises elections. The Government respected the rights of its citizens to join any political party, propagate their views, and vote for candidates of their choice.

During the year, the governing party launched an effort to amend the Constitution to allow reelection of the President to a second consecutive term. In November the Legislative Assembly approved a draft amendment permitting reelection; the amendment must be approved again by the next session of the legislature, which commences in March 1998, and then by a popular referendum.

There are no legal barriers to participation by women, members of minorities, or persons of indigenous descent, but they are generally underrepresented in government and politics. Women hold 5 of 72 Legislative Assembly seats and 1 of 11 cabinet positions. The mayor of Panama City is a woman, as are the provincial governors of Panama, Herrera, and Colon provinces, and the leader of the major opposition party.

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

Locally, each reserve is governed by tribal chiefs, who 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 large Ngobe-Bugle reserve, created in March, will ultimately lead to the election of new legislators from the area when district realignments are completed.

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, although UNHCR representatives complained after the April repatriation of Colombians that government officials outside of ONPAR (the Government's refugee agency) initially refused to meet with them. Criticism of government actions by international organizations were widely reported by the media.

On February 5, President Perez Balladares signed into law the bill creating the new office of "Defender of the People" (Human Rights Ombudsman). Despite opposition concerns about a change in selection procedures from the original bill, the Legislative Assembly on June 27 elected politically independent constitutional law scholar Italo Antinori as the first ombudsman; human rights groups acknowledged that the Assembly carried out the selection and voting procedures in a free and fair fashion. Antinori's candidacy gained broad bipartisan support, which the President characterized at Antinori's swearing-in as "strengthening the institution and dissipating any doubts about its viability."

The ombudsman has broad powers to investigate complaints of human rights abuses and publicize findings, but no coercive authority, depending instead on moral suasion. The initial 6 months of his term were to be a "start-up" period to organize the office and hire personnel. However, in a speech on August 12, Antinori said that he was already receiving over 100 calls a day with complaints. Antinori expressed frustration that, despite guarantees in the ombudsman legislation of an adequate operating budget, the Government had not provided the new institution with funding. Antinori charged that the Government had tried to "fence him in" through economic pressures. Government spokesmen attributed the lack of funding to the office's creation in the middle of the fiscal year. After considerable adverse publicity, the Government provided funds for the office, which was expected to open in January 1998.

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

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

Women

Domestic violence against women continued to be a serious problem, and local justices processed thousands of domestic violence cases. 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. The Foundation for the Promotion of the Woman, among other women's advocacy groups and government agencies, operated programs to assist victims of abuse, and to educate women on their legal rights. The 1995 Family Code criminalizes family violence, including psychological, physical, or sexual abuse.

In addition to domestic violence, sexual harassment is a serious threat to the equal status of women in society. According to a report by the Latin American Committee for the Defense of Women, in 1995 about 70 percent of female government employees reported having endured sexual harassment in the workplace, 42 percent by their immediate supervisors and 18 percent by even more senior supervisors. Since a bill to criminalize sexual harassment failed to pass the legislature in 1995, no further legislation has been introduced. The Government fired one of Panama's representatives to the Central American Parliament in March after a female secretary accused him of sexual harassment and abuse. The Government acted after the presidency of the Parliament sent a formal complaint regarding the representative's conduct.

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

The Constitution mandates equal pay for men and women in equivalent jobs, but wages paid to women are often lower and increase at a slower rate. Although statistics are lacking, there are credible reports of hiring practices based on age and "attractiveness." Following layoffs at the Social Security Administration in April, a group of female doctors accused administrators of discriminating against pregnant employees by not renewing their work contracts. Social security officials said that the nonrenewals were due to regular personnel reductions, but the employees claimed that they were singled out because administrators believed that the women had gotten pregnant to avoid being laid off.

A number of private women's rights groups, including groups for indigenous women, concentrate on disseminating information about women's rights, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms. The Foundation for the Promotion of the Woman said that it provided counseling assistance to 555 women in 1995 (latest data available), principally in the areas of legal advice, alimony, physical abuse, and family disputes.

Children

Minors (under 18 years of age) represent 48 percent of the population. Education of children is compulsory through the equivalent of ninth grade. 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 Government has no specific office charged with protecting children's rights, although the office of the First Lady has assumed an advocacy role on some children's issues. In March the First Lady's office, in conjunction with the Ministry of Education, signed an agreement with the United Nations Children's Fund to sponsor new education programs for street children and school dropouts. Many children continue to suffer from malnutrition, neglect, and inadequate medical care. Malnourishment is lowest in urban areas, and highest among rural indigenous groups.

Juvenile courts report a high incidence of juvenile delinquency in major urban areas. The authorities particularly report an increase in crimes attributed to juvenile gangs, including drug trafficking, armed robberies, kidnappings, car thefts, and murders. Following two highly publicized murders of taxi drivers by juveniles in April and May, President Perez Balladares said that minors who commit serious crimes should be tried as adults. A PRD legislator introduced a bill in May to reform the Family Code to allow serious juvenile offenders to be tried and punished as adults. Children's advocacy groups, including the Catholic Church and the First Lady's office, openly opposed the measure. No action has been taken on the bill by the legislature.

People With Disabilities

The Workers with Disabilities Office of the Department of Labor and Social Welfare is responsible for government policy and support for citizens with disabilities and for placing qualified disabled workers with employers. The office was in charge of implementing a June 1993 executive order that provided employers with tax incentives for hiring people with disabilities but has had only minimal success. Although some public buildings and retail stores have access ramps for disabled people, no law or regulation compels the installation of facilitated access features in public or private buildings.

Indigenous People

Indigenous people number approximately 194,000 (8 percent of the population) and have the same political and legal rights as other citizens. The Constitution protects the ethnic identity and native languages of indigenous people, requiring the Government to provide bilingual literacy programs in indigenous communities. Indigenous people have legal rights and take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. The Family Code recognizes traditional indigenous cultural marriage rites as the equivalent of a civil ceremony. The Ministry of Government and Justice maintains a Directorate of Indigenous Policy. The Legislative Assembly also has an Indigenous Affairs Commission to address charges that the Government has neglected indigenous needs. Despite legal protection and formal equality, indigenous people generally endure relatively higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. Discrimination, 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. In response to demands by the Ngobe-Bugle indigenous tribes (among the most vocal and numerically the country's largest) for increased autonomy, the President on March 7 signed a bill creating a "comarca," or semiautonomous reserve, for the groups. The 694,000-hectare reserve (9 percent of the national territory), stretching across portions of three provinces, had been demanded by the Ngobe-Bugle during more than two decades of appeals and protest marches.

While some indigenous leaders expressed satisfaction with creation of the reserve, others complained that the Government had pushed through the enabling legislation without consulting tribal authorities, and had ignored key indigenous demands. A key point of contention remains the disposition of private mining concessions on lands within the new reserve. Indigenous leaders wanted formal demarcation of the reserve to give them veto power over mining concessions granted by the Government. The new law cites the Constitution as allocating exclusive control of subsurface mineral deposits to the State. Ngobe-Bugle activists vowed to continue protesting further mineral exploitation in their territory. Tribal leaders also complained in July that mayors of towns located within the new limits of the reserve are refusing to respect tribal laws and decisions by tribal councils. The Government began the process of demarcating electoral districts within the new reserve to allow residents to participate in the 1999 elections. The Government expected to complete the demarcation process in January 1998.

Police clashed in June with Ngobe-Bugle squatters on private property in Bocas del Toro province. The indigenous residents, who had lived in the area for over 20 years, resisted police attempts to evict them after the property was sold to a new owner. In a violent confrontation on June 17, police shot and killed one protester and several others were slightly injured in the melee (see Section 1.a.). Protesters temporarily captured and tortured one PNP officer. The Government subsequently purchased 40 hectares of land nearby on which to resettle the protesters and agreed to provide the community with a school, health clinic, and access to potable water and electricity.

National/Racial/Ethnic Minorities

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

Section 6 Worker Rights

a. The Right of Association

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

According to Ministry of Labor statistics, approximately 10 percent of the total employed labor force is organized. There are 257 active unions, grouped under 6 confederations and 48 federations representing approximately 73,300 members in the private sector. Neither the Government nor the political parties control or financially support unions. The 1994 Civil Service Law permits most government workers to form public employee associations and federations and establishes their right to represent members in collective bargaining with their respective agencies. It also provides most workers with the right to strike, except for certain government workers in areas vital to public welfare and security, such as the police and health workers and those employed by the U.S. military forces and the Panama Canal Commission. The Government fired striking air-traffic controllers in late 1996, citing labor law provisions defining essential services. The fired controllers sought redress but were never reinstated in their jobs. Public sector workers are lobbying the Government to have their associations accorded formal "union" status. The new Labor Code 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.

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

b. The Right to Organize and Bargain Collectively

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

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. The new labor legislation 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 new 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 swath 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 allows for participation in the tripartite (government, labor, and industry) arbitration commission by an unrepresentative worker delegate.

c. Prohibition of Forced or Compulsory Labor

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

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

The Labor Code prohibits the employment of children under 14 years of age as well as those under 15 years if the child has not completed primary school; children under age 16 cannot work overtime; those under 18 years cannot perform night work. Children between the ages of 12 and 15 may perform farm or domestic labor as long as the work is light and does not interfere with the child's schooling. The Ministry of Labor enforces these provisions in response to complaints and may order the termination of unauthorized employment. The law prohibits forced or bonded labor by children, and the Government enforces this provision (see Section 1.c.). However, the Government does not enforce other child labor provisions in rural areas, claiming insufficient staff. According to an ILO report, 11,600 children between the ages of 10 and 14 are in the labor force--primarily in farm or domestic labor.

e. Acceptable Conditions of Work

The Labor Code establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly. It also establishes minimum wage rates for specific regions and for most categories of labor. The minimum wage, last increased in January 1993, is \$1.00 per hour in the districts of Panama, Colon, and San Miguelito, and for workers in financial services. It is not enough to support a worker and family above the poverty level in the relatively high-cost economy. Most workers formally employed in urban areas earn the minimum wage or above. Most workers in the large informal sector earn below the minimum wage. Unions have repeatedly alleged that contractors operating in the Panama Canal area pay less than the required minimum wage. The Ministry of Labor does not adequately enforce the minimum wage law, due to insufficient personnel and financial resources. The Government sets and enforces occupational health and safety standards. 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. The law protects from dismissal workers who file requests for health and safety inspections. Workers also have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They are generally not allowed to do so if the threat is not immediate, but may request a health and safety inspection to determine the extent and nature of the hazard. The Ministry of Labor is responsible for enforcing health and safety standards and generally does so. The standards are fairly encompassing and generally emphasize safety over long-term health hazards, according to organized labor sources. Health problems, however, continue in the banana industry as well as in the cement and milling industries.