

# PANAMA 2019 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Panama is a multiparty constitutional democracy. In May voters chose Laurentino Cortizo Cohen as president in national elections that international and domestic observers considered generally free and fair.

The country has no military forces. The Panama National Police (PNP) is principally responsible for internal law enforcement and public order, while additional security forces are responsible for border control and aero naval security. Civilian authorities maintained effective control over the security forces.

Significant human rights issues included: harsh prison conditions; restrictions on free expression, the press, and the internet, including through censorship and criminal libel lawsuits; and forced child labor.

The law provides criminal penalties for corruption by officials, but the government generally did not implement the law effectively.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution prohibits such practices, and there were no reports that government officials employed them.

### **Prison and Detention Center Conditions**

Prison conditions remained harsh, primarily due to overcrowding, a shortage of prison guards, and inadequate medical services and sanitary conditions.

Physical Conditions: As of September the prison system, with an intended capacity of 14,946 inmates, held 17,360 prisoners. Pretrial detainees shared cells with convicted prisoners due to space constraints. Prison conditions for women were generally better than for men, but conditions for both populations remained poor, with some overcrowded facilities, poor inmate security and medical care, and a lack of basic supplies for personal hygiene. Authorities acknowledged that staff shortages limited exercise time for inmates on certain days. Female inmates participated more in rehabilitation programs than male inmates.

The Ministry of Health conducted two vaccination campaigns in prisons during the year. HIV/AIDS and tuberculosis treatments were available once a month, but high-blood-pressure medication and insulin were scarce. Inmates with tuberculosis were detained in one prison in order to facilitate access to medications and a special diet.

Prison medical care overall was inadequate due to the lack of personnel, transportation, and medical resources, although the Ministry of Health carried out vaccination campaigns during the year and provided monthly HIV/AIDS and tuberculosis treatments. Approximately 60 percent of complaints received by the Ombudsman's Office from January through October were related to the lack of access to medical attention and medications for prisoners. Authorities permitted relatives of inmates to bring medicine, although there were reports that some relatives paid bribes to prison personnel, including police agents, to bypass the required clearances. Authorities transferred patients with serious illnesses to public clinics, but there were constant difficulties in arranging inmate transportation, so that inmates often missed medical appointments with specialized physicians. Because the Ministry of Government's National Directorate of the Penitentiary System (DGSP) did not have ambulances, inmates were transported in police vehicles or in emergency services ambulances when available. Emergency services ambulance staff were reluctant to service the prisons due to societal stigma. A lack of prison guards also affected the transfers.

As of December, 17 male inmates had died in custody, 16 due to inmate-on-inmate violence.

Administration: Authorities conducted investigations of credible allegations of mistreatment.

Independent Monitoring: The government permitted prison monitoring by independent nongovernmental observers. During the year the Ombudsman's Office and the director and deputy director of the National Mechanism to Prevent Torture conducted unannounced visits to the prisons without restrictions. Human rights nongovernmental organizations (NGOs) seeking access to prisons during visiting hours were required to send a written request to the DGSP 15 days in advance.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government generally observed these prohibitions.

#### **Arrest Procedures and Treatment of Detainees**

The law requires arresting officers to inform detainees immediately of the reasons for arrest or detention and of the right to immediate legal counsel. Detainees gained prompt access to legal counsel and family members, and the government provided indigent defendants with a lawyer.

The country completed its transition to an accusatory justice system (SPA) in 2016, but cases opened prior to the transition continued to be processed under the previous inquisitorial system. Both systems demonstrated vulnerabilities to corruption, inefficiencies, and bureaucratic obstacles, although SPA brought improvements, such as a reduction in pretrial detentions, and an 85 percent reduction in the duration of case resolution. Time limits were also implemented to prevent lengthy delays as occurred under the inquisitorial system, in some cases for years.

Under the SPA, bail exists but was rarely granted because of the implementation of a less costly provisional release system. Under the inquisitorial system, a functioning bail procedure existed for a limited number of crimes but remained largely unused. Most bail proceedings were at the discretion of the Prosecutor's Office and could not be initiated by detainees or their legal counsel. Bail was granted in high-profile corruption cases, which prompted complaints by civil society about the Public Ministry's administering "selective" justice.

The law prohibits police from detaining adult suspects for more than 48 hours but allows authorities to detain minor suspects for 72 hours. In the accusatorial system, arrests and detention decisions were made on a probable cause basis.

Pretrial Detention: According to DGSP statistics, 43 percent of inmates had not been convicted (a decrease of 52 percent from the previous year) and 38 percent of those had been in pretrial detention for more than a year. The pretrial detention rate reflected the fact that cases begun under the inquisitorial system must still be processed under that system, while the country continued to fully transition to the SPA.

### **e. Denial of Fair Public Trial**

While the law provides for an independent judiciary, the judicial system was inefficient and susceptible to corruption as well as internal and external influence, and it faced allegations of manipulation by the executive branch. In August a superior court confirmed a 2018 lower criminal court judge's decision to dismiss embezzlement charges for eight million balboas (eight million dollars) against 22 government officials and businesspersons, many of whom were influential in the community.

Court proceedings for cases in process under the inquisitorial system were not publicly available, whereas accusatory system cases were. As a result, nonparties to the inquisitorial case proceedings did not have access to these proceedings until a verdict was reached. Under the inquisitorial system, judges could decide to hold private hearings and did so in high-profile cases. Consequently, the judiciary sometimes faced accusations, particularly in high-profile cases, of procedural irregularities. Since most of these cases had not reached conclusion, however, the records remained under seal. Interested parties generally did not face gag orders, but because of this mechanism, it was difficult to verify facts.

### **Trial Procedures**

The law provides for the right to a fair and public trial, and the judiciary generally enforced this right. The law provides that all citizens charged with crimes enjoy the right to a presumption of innocence. They have the right to be informed promptly and in detail of the charges (with free interpretation as necessary for non-Spanish speaking inmates), to have a trial without undue delay, to have counsel of their choice and adequate time and facilities to prepare a defense, to refrain from incriminating themselves or close relatives, and to be tried only once for a given

offense. The accused may be present with counsel during the investigative phase of proceedings.

During the year all new criminal cases were tried under the SPA, and trials were open to the public. The SPA stipulates that trials must be completed in less than 18 months. Judges may order the presence of pretrial detainees for providing or expanding upon statements or for confronting witnesses. Trials are conducted based on evidence presented by the public prosecutor. Defendants have the right to be present at trial and to consult with an attorney in a timely manner, along with the right to enter into a plea deal. Defendants may confront or question adverse witnesses and present their own witnesses and evidence. Defendants have a right of appeal. The judiciary generally enforced these rights.

Public defenders failed to enact orders for early release of inmates in a timely fashion, despite written instructions from the judicial branch. Failure to enforce judicial branch instructions in the penitentiary system was common during the year. In one case a government official said that the Public Defenders' Office did not process a written release order in a timely manner. As a result, the inmate (who had already completed two-thirds of his sentence and was eligible for early release in August 2018) contracted tuberculosis in January while still imprisoned. The judge reportedly allowed for immediate release of this inmate in November.

### **Political Prisoners and Detainees**

There were no credible reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Citizens have access to the courts to bring lawsuits seeking damages for, or cessation of, human rights violations, although most do not pursue such lawsuits due to the length of the process. There are administrative and judicial remedies for alleged wrongs, and authorities often granted them to citizens who followed through with the process. The court can order civil remedies, including fair compensation to the individual injured. Individuals or organizations who have exhausted domestic remedies may initiate cases involving violations of an individual's human rights by submitting petitions to the Inter-American Commission on Human Rights.

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

The law prohibits arbitrary interference with privacy, family, home, or correspondence, and the government generally respected these prohibitions.

On August 9, a three-judge panel under the accusatory system found former president Ricardo Martinelli not guilty of any of the four criminal charges he faced: violation of secrecy laws and privacy, unlawful surveillance, embezzlement, and abuse of authority. The panel's ruling indicated that the Public Ministry had made procedural mistakes and therefore would not allow hard evidence and witness testimonies. On August 26, the ruling was formalized, and all restrictions on Martinelli, including travel, were lifted. The prosecutor was appealing the ruling before the Supreme Court as of October.

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

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press. The government generally respected this right, but journalists and media outlets noted an increase in criminal and civil libel/slander lawsuits, which they considered a threat to freedom of expression and freedom of the press.

Press and Media, Including Online Media: In July under the Cortizo administration, security guards from the National Assembly expelled a known television personality from the National Assembly media balcony to prevent her from covering a migration bill. Two days later the National Assembly budget committee met behind closed doors to avoid press coverage, which was not standard practice. Both actions resulted in complaints from opposition deputies and civil society leaders.

Libel/Slander Laws: According to local media, former president Ricardo Martinelli submitted 50 libel/slander lawsuits against local media, 26 of which were issued after he was declared not guilty on August 9 of illegal wiretapping. Reports stated Martinelli's civil lawsuits against daily newspapers *El Siglo*, *La Prensa*, and *Mi Diario* included media employees whose work was not related to judicial or political reporting (editorial cartoonists and graphic designers).

In May Corprensa (which owns *La Prensa* and *Mi Diario*) was found guilty in a libel/slander lawsuit filed by former first lady Marta de Martinelli. The

corporation was sentenced to pay \$25,000 balboas (\$25,000) in damages and 6,000 balboas (\$6,000) to cover legal expenses.

On September 2, Martinelli filed a civil lawsuit against TVN Information vice president and television host Sabrina Bacal, seeking one million balboas (one million dollars) in damages for calling him a thief during a public interview.

Following these legal actions, on September 3, media associations Journalism National Council and the Journalists Forum for Freedom of Expression and Information issued a joint statement requesting the Judicial Branch and Public Ministry keep “vigilant” regarding the “growing trend to abuse the justice system, using it as a censorship, intimidation, and persecution tool against journalists and media.”

Media organizations and media leaders claimed these lawsuits hindered reporting on specific cases and individuals and were likely intended to financially damage media corporations.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

### **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

#### **e. Internally Displaced Persons**

Not applicable.

#### **f. Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The Panamanian National Office for Refugees (ONPAR) had a backlog of more than 15,000 cases and usually approved only 1 percent of asylum requests. ONPAR processed asylum applications and then referred applications to the National Commission for Refugees, an interagency committee that decides the final status of every case. The process of obtaining refugee status currently takes two to three years, during which only asylum seekers admitted into the process had the right to work. The current asylum application process can take up to one year for applicants to even be admitted into the system, which was not a guarantee of asylum approval.

The government approved and implemented the protocol for identification, referral, and attention for minors requiring international protection; however, the institutional protocol for protecting minors who migrate was pending implementation approval.

The government continued to manage camps in the Darien region to provide food, shelter, and medical assistance to migrants. At least one camp in the Darien did not have regular access to potable water and at times presented unsanitary conditions, especially when dealing with high volumes of migrants. The government reported continued migrations of persons from Cuba, Haiti, South Asia, India, and Africa.

According to the UN High Commissioner for Refugees (UNHCR) and its NGO implementing partners, thousands of persons living in the country were possibly in need of international protection. These included persons in the refugee process, persons denied refugee status, and persons who did not apply for refugee status due to lack of knowledge or fear of deportation.



Employment: Refugees recognized by authorities have the right to work, but recognized refugees complained that they faced discriminatory hiring practices. In an effort to prevent this discriminatory practice, ONPAR removed the word “refugee” from recognized refugees’ identification cards. By law individuals in the process of applying for asylum do not have the right to work; however, beginning in May those who had been formally admitted into the asylum process could request a one-year work permit that could be renewed as many times as needed.

Access to Basic Services: Education authorities sometimes denied refugees access to education and refused to issue diplomas to others if they could not present school records from their country of origin. The Ministry of Education continued to enforce the government’s 2015 decree requiring schools to accept students in the asylum process at the grade level commensurate with the applicants’ prior studies. As a result of the long wait times to be entered into the asylum system, many applicants encountered difficulties accessing basic services such as health care, financial services, and appropriate housing.

Durable Solutions: The law allows persons legally recognized as refugees or with asylum status who have lived in the country for more than three years to seek permanent residency.

### **g. Stateless Persons**

The government continued to work with Colombia to recognize approximately 200 stateless persons on the border. The governments of Panama and Costa Rica, with the cooperation of UNHCR, continued to use a mobile registry office on their common border to register indigenous Ngabe and Bugle seasonal workers who travelled between Costa Rica and Panama and whose births had not registered in either country.

## **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot based on universal and equal suffrage. Naturalized citizens may not hold specified categories of elective office, such as the presidency.

### **Elections and Political Participation**

Recent Elections: In May voters chose Laurentino Cortizo Cohen as president in national elections that independent observers considered generally free and fair. Elected at the same time were 71 national legislators, 81 mayors, 679 local representatives, and nine council members. A group of international observers from the Organization of American States, the EU, electoral NGOs, regional electoral authorities, and members of the diplomatic corps considered the elections fair and transparent.

Political Parties and Political Participation: The law requires new political parties to meet strict membership and organizational standards to gain official recognition and participate in national campaigns. Political parties must obtain the equivalent of 2 percent of the total votes cast to maintain legal standing.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government generally did not implement the law effectively. The government used anticorruption mechanisms such as asset forfeiture, whistleblower and witness protection, plea bargaining, and professional conflict-of-interest rules to address corrupt practices among government employees and security forces. Nevertheless, corruption remained a problem in the executive, judicial and legislative branches as well as in the security forces.

Corruption: The Public Ministry continued investigations into allegations of corruption against public officials but many have not resulted in convictions, and in one high-profile case, a court order denied requests for extensions of the legal timelines for more investigations. In a March hearing, an anticorruption prosecutor asked a criminal judge to convict six penitentiary system employees for corruption and six individuals are under fraud charges. Corruption and a lack of accountability among police continued to be a problem. The new administration that took office in July made personnel changes in all public forces agencies. Agents were dismissed on grounds of corruption and were under investigation by the Public Ministry. Mechanisms to investigate and punish abuse and corruption in the security forces remain centralized and opaque. The government rarely made cases of police abuse or corruption public, and the National Criminal Statistics Directorate was unable to provide strong data on police internal affairs.

As of September the Public Ministry continued the investigations of the Comptroller General's Office's 2018 audits of transactions between 2009 and 2014 by elected local representatives. The comptroller alleged a misuse of public funds through irregular contracts carried out by the Martinelli administration's National Assistance Program. No charges were filed during the year.

The 2018 corruption cases filed by the Comptroller General's Office before the Supreme Court against deputies from all political parties represented in the National Assembly were still under investigation by the court as of September.

The case continued against former minister of the presidency Demetrio "Jimmy" Papadimitriu and former minister of public works Jaime Ford, both in the Martinelli administration, detained in 2018 for alleged links to bribes paid by Brazilian multinational construction company Odebrecht. Both individuals faced money laundering and corruption charges. They were released on bail but could not leave the country without a court order. The cases remained under the inquisitorial system. Papadimitriu's mother, Maria Bagatelas, a private citizen also involved in the Odebrecht case, was under house arrest, but in August the Supreme Court changed the measure and issued an order forbidding her from departing the country without a court's approval.

Financial Disclosure: The law requires certain executive and judiciary officials to submit a financial disclosure statement to the Comptroller General's Office. The information is not made public unless the official explicitly gives permission.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

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

Government Human Rights Bodies: The ombudsman, elected by the National Assembly, has moral but not legal authority. The Ombudsman's Office received government cooperation and operated without government or party interference; it referred cases to the proper investigating authorities.

### **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

## Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape, with prison terms of five to 10 years. Rapes continued to constitute the majority of sexual crimes investigated by the National Police Directorate of Judicial Investigation. Eighty percent of the victims were women and 63 percent of those were younger than 17.

The law against gender violence stipulates stiff penalties for harassment and both physical and emotional abuse. The law states that sentencing for femicide is a mandatory 25 to 30 years in prison. Officials and civil society organizations agreed that domestic violence continued to be a serious crime. The PNP Specialized Unit for Domestic and Gender Violence created in 2018 continued to have 190 agents trained to work these cases. In June, Roberto Moreno Grajales was convicted and sentenced to 30 years prison for the 2016 killing of his former girlfriend, Diosila Martinez. He had originally fled to Costa Rica after the killing but was extradited in 2018 to Panama.

The Ombudsman's Office continued its program *Mujer Conoce tus Derechos* (Woman, Know Your Rights), which included a wide distribution of flyers. In May the National Institute for Women's Affairs (INAMU) established 24/7 hotline 182 to give legal guidance to victims of domestic violence. If the caller was at risk during the call, the operator would make a connection with the police.

Sexual Harassment: The law prohibits sexual harassment in cases of employer-employee relations in the public and private sectors and in teacher-student relations. Violators face a maximum three-year prison sentence. The extent of the problem was difficult to determine, because convictions for sexual harassment were rare, pre-employment sexual harassment was not actionable, and there was a lack of formal reports. During the year the Ministry of Labor, UN Development Program, and NGO SUMARSE began to develop a protocol for private sector employers on how to investigate and deal with labor and sexual harassment within companies.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The law prohibits discrimination based on gender, and women enjoyed the same legal status and rights as men. The law recognizes joint property in marriages. The law mandates equal pay for men and women in equivalent jobs.

Although an illegal hiring practice, some employers continued to request pregnancy tests. There were two cases reported in the countryside of temporary workers who terminated their pregnancies once the condition became obvious, presumably due to fear of being fired.

## **Children**

Birth Registration: The law provides citizenship for all persons born in the country, but parents of children born in remote areas sometimes had difficulty obtaining birth registration certificates.

Child Abuse: Child abuse is illegal. The law has several articles pertaining to child abuse and its penalties, which depend on the type of abuse and range from six months to 20 years' imprisonment if the abuse falls under a crime that carries a higher penalty. Public Ministry statistics as of August reported that 2,090 children were victims of different types of abuse; the Public Ministry believed this figure was underreported. The Ministry of Social Development maintained a free hotline for children and adults to report child abuse and advertised it widely. The ministry provided funding to children's shelters operated by NGOs and continued a program that used pamphlets in schools to sensitize teachers, children, and parents about mistreatment and sexual abuse of children.

Early and Forced Marriage: The minimum legal age for marriage is 18. The government prohibits early marriage even with parental permission.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation, sale, and offering for prostitution of children, in addition to child pornography. Officials from the Ministry for Public Security continued to prosecute cases of sexual abuse of children, including within indigenous communities. Ministry officials believed that commercial sexual exploitation of children occurred, including in tourist areas in Panama City and in beach communities, although they did not keep separate statistics. In September, seven Panamanians were detained for their connections to an international child pornography ring based in Brazil. For two and one-half months, Panama and Brazil worked together with authorities in El Salvador, Paraguay, Chile, Ecuador, and other foreign countries to capture and imprison the individuals responsible for this child pornography ring as part of Operation *Luz de la Infancia*.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the

Department of State's *Annual Report on International Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

Jewish community leaders estimated there were 15,000 Jews in the country. There were no known reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The law prohibits discrimination based on physical, sensory, intellectual, or mental disabilities; however, the constitution permits the denial of naturalization to persons with mental or physical disabilities. The law mandates access to new or remodeled public buildings for persons with disabilities and requires that schools integrate children with disabilities. Despite provisions of the law, persons with disabilities experienced discrimination in a number of these areas.

Most of Panama City's bus fleet remained wheelchair inaccessible. Media reports in August noted again that Metro elevators were frequently locked and could not be used. A lack of ramps further limited access to the old stations, although the newly inaugurated Metro Line 2 had ramp access. Most businesses had wheelchair ramps and accessible parking spaces to avoid fines, but in many cases they did not meet the government's size specifications.

In September the National Secretariat for People with Disabilities began a free shuttle service from the city's largest bus terminal for individuals with disabilities that needed to visit their offices, which were located in a residential neighborhood with limited public transportation.

Some public schools admitted children with mental and physical disabilities, but most did not have adequate facilities for children with disabilities. Few private schools admitted children with disabilities, as they are not legally required to do so. The high cost of hiring professional tutors to accompany children to private

schools--a requirement of all private schools--precluded many students with disabilities from attending.

The government-sponsored Guardian Angel program continued to provide a monthly subsidy of 80 balboas (\$80) for children with significant physical disabilities living in poor conditions.

As of September, 1,440 individuals with disabilities were hired by local companies per Ministry of Labor statistics. This was an increase from the yearly average number of individuals with disabilities hired between 2014 and 2018. The law stipulates that employers who hire individuals with disabilities receive tax breaks at the end of the fiscal year.

### **National/Racial/Ethnic Minorities**

Minority groups were generally integrated into mainstream society. Prejudice was directed, however, at recent legal immigrants, the Afro-Panamanian community, and indigenous Panamanians. Cultural and language differences and immigration status hindered the integration of immigrant and first-generation individuals from China, India, and the Middle East into mainstream society. Additionally, some members of these communities were reluctant to integrate.

The Afro-Panamanian community was underrepresented in positions of political and economic power. Areas where they lived lagged in terms of government services and social investment. The government's National Secretariat for the Development of Afro-Panamanians focused on the socioeconomic advancement of this community. The secretariat was not supportive of the joint work between government entities and NGOs to ensure an accurate count of the Afro-Panamanian population in the upcoming 2020 census.

The law prohibits discrimination in access to public accommodations such as restaurants, stores, and other privately owned establishments; no complaints were filed. The Ombudsman's Office intervened in several cases before students with Rastafarian braids were permitted entry into public school classrooms.

There were reports of racial discrimination against various ethnic groups in the workplace. Lighter-skinned persons continued to be overrepresented in management positions and jobs that required dealing with the public, such as bank tellers and receptionists. A July report by the UN Development Program and the

National Institute on Women stated that Afro-Panamanian women were 10 times more susceptible to discrimination in the workplace than women from other races.

### **Indigenous People**

The law affords indigenous persons the same political and legal rights as other citizens, protects their ethnic identity and native languages, and requires the government to provide bilingual literacy programs in indigenous communities. Indigenous individuals have the legal right to take part in decisions affecting their lands, cultures, traditions, and the allocation and exploitation of natural resources. Nevertheless, they continued to be marginalized in mainstream society. Traditional community leaders governed *comarcas* (legally designated semiautonomous areas) for five of the country's seven indigenous groups. The government also unofficially recognized eight other traditional indigenous government authorities. Government institutions recognized these eight regions were traditionally organized indigenous settlements and territories not included when the original *comarcas* were created.

Government officers continued to meet with traditional organized authorities from the indigenous community, and many requested recognition of their land via collective titles. No collective land titles were granted during the year, however, and land conflicts continued to arise. In March the bill for Naso Comarca was sent to the Supreme Court of Justice to decide if it is constitutional after a veto by the president in December.

The Ngabe and Bugle continued to oppose the Barro Blanco dam project, which became operational in 2017. There were no plans by the government to halt dam operations. The Ngabe-Bugle and the government continued to negotiate details of the dam's operation.

Although the law is the ultimate authority in indigenous *comarcas*, many indigenous persons had not received sufficient information to understand their rights and, due to the inadequate system of education available in the *comarcas*, failed to use available legal channels.

In February the government established the Governing Committee for the National Indigenous Peoples Development Plan, with three representatives of the indigenous groups and government entities to ensure the implementation of the plan.



Societal and employment discrimination against indigenous persons was widespread. Employers frequently denied indigenous workers basic rights provided by law, such as a minimum wage, social security benefits, termination pay, and job security. Laborers on the country's agricultural plantations (the majority of whom were indigenous persons) continued to work in overcrowded and unsanitary conditions. The Ministry of Labor conducted limited oversight of working conditions in remote areas.

Deficiencies in the educational system continued in the comarcas, especially beyond the primary grades. There were not enough teachers in these remote and inaccessible areas, with many schools poorly constructed and lacking running water. Teachers and students in remote areas of the comarcas continued to sporadically protest poor road and school conditions. Access to health care was a significant problem in the indigenous comarcas, despite government investment in more health infrastructure and staff. This was reflected in high rates of maternal and infant mortality, malnutrition, and an increase in HIV rates. The government continued to execute the Indigenous Development Plan jointly developed with indigenous leaders in 2013.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law does not prohibit discrimination based on sexual orientation. There was societal discrimination based on sexual orientation and gender identity, which often led to denial of employment opportunities.

The PNP's internal regulations describe consensual same-sex sexual conduct by its employees as against policy and potentially grounds for dismissal. Lesbian, gay, bisexual, transgender, intersex (LGBTI) human rights organizations reported harassment of LGBTI persons by security forces as a source of serious concern. On July 5, the new PNP director general stated in a national news interview that members of the LGBTI community can be members of the police force as long as they do not conduct actions that could damage the image of the institution. According to LGBTI NGOs, no changes had been made to internal police policies prohibiting LGBTI persons from serving in the force.

LGBTI NGOs reported hospital personnel refused to provide medical services to a transgender individual in a public hospital in Changuinola, province of Bocas del Toro, early in the year. In June, after attending the Pride Parade, a young man was raped by two men after they saw a rainbow flag in his backpack. The victim

sought support from a local NGO and filed a criminal complaint with the Public Ministry. As of November there had been no progress in the case.

As of September the 2016 class-action lawsuit before the Supreme Court of Justice requesting Article 26 of the Family Code, which refers to marriage as “the union of a man and a woman” and thus forbids same-sex legal unions, be declared unconstitutional, was still unresolved.

### **HIV and AIDS Social Stigma**

The law prohibits discrimination against persons with HIV/AIDS in employment and education. Discrimination, however, continued to be common due to ignorance of the law and a lack of mechanisms for ensuring compliance. LGBTI individuals reported mistreatment by health-care workers, including unnecessary quarantines.

Human rights NGOs reported receiving complaints of labor discrimination when employers found out employees were HIV positive, despite the fact that the law prohibits discrimination against persons with sexually transmitted diseases, as well as their immediate relatives. Employees are not obligated to disclose their condition to the employer, but if they do so, the employer must keep the information confidential. LGBTI NGOs reported at least one employer who allegedly sought ways to dismiss an HIV-positive employee who had 15 years of service at the company. Health Ministry representatives made a public call to employers to follow the law and asked laid-off employees to reach out to them for legal advice. Employers can be fined for not keeping an employee’s medical condition confidential.

In September the NGO PROBIDSIDA published concerns about a shortage of antiretroviral medications for treating patients with HIV/AIDS. PROBIDSIDA claimed that bureaucracy and lack of interest from administrative offices at the Ministry of Health and the Social Security clinics led to late purchase orders and late payment of providers, implying systematic prejudice against HIV-positive individuals within the health-care system.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The legal framework of labor laws is based upon the Labor Code of 1971, which provides for private-sector workers to form and join independent unions, bargain collectively, and conduct strikes. By law the majority of public-sector employees can strike but may not organize unions. Instead, those public-sector employees may organize professional associations that would bargain collectively on behalf of its members, although the public entity is not legally obligated to bargain with the association. Under the previous Varela administration, the Ministry of Labor registered more than 10 public-sector unions within a few ministries, such as the Ministry of Public Works, Ministry of Economy and Finance, Maritime Authority, among others. As a result the government is not obligated to engage in negotiations with the professional associations within these entities. The National Federation of Public Servants (FENASEP), an umbrella federation of 25 public-sector worker associations, traditionally fought for the establishment of rights similar to those of private-sector unions. The law prohibits antiunion discrimination and requires reinstatement of workers terminated for union activity but does not provide adequate means of protecting from rights violations.

Unions and associations are required to register with the Ministry of Labor. If the ministry does not respond to a private-sector union registration application within 15 calendar days, the union automatically gains legal recognition, provided the request is submitted directly with supported documentation established by law. In the public sector, professional associations gain legal recognition automatically if the General Directorate for Administrative Public Sector Careers does not respond to registration applications within 30 days. From January to September, the General Directorate approved seven public and 10 private union formation applications.

The Ministry of Labor Board of Appeals and Conciliation has the authority to resolve certain labor disagreements, such as internal union disputes, enforcement of the minimum wage, and some dismissal issues. The law allows arbitration by mutual consent, at the request of the employee or the ministry, in the case of a collective dispute in a privately held public utility company. It allows either party to appeal if arbitration is mandated during a collective dispute in a public-service company. The Ministry of Labor Board of Appeals and Conciliation has sole competency for disputes related to domestic employees, some dismissal issues, and claims of less than \$1,500. The Minister of Labor initiated biennial minimum wage negotiations in August and was to act as a moderator between union and private-sector stakeholders.

Government-regulated union membership policies place some restrictions on freedom of association. The constitution mandates that only citizens may serve on a union's executive board. In addition, the law requires a minimum of 40 persons to form a private-sector union (either by a company across trades or by trade across companies) and allows only one union per business establishment. The International Labor Organization criticized the 40-person minimum as too large for workers wanting to form a union within a company. Many domestic labor unions, as well as the public and private sectors, reiterated their support for keeping the figure at 40 individuals.

In the public sector, professional associations represent the majority of workers. The law stipulates only one association may exist per public-sector institution and permits no more than one chapter per province. At least 50 public servants are required to form a professional association. No law protects the jobs of public-sector workers in the event of a strike. FENASEP contended there was no political will to allow all public servants within ministries to form unions, because this could eliminate positions for political appointees.

The law prohibits federations and confederations from calling strikes, as well as strikes against the government's economic and social policy. Individual professional associations under FENASEP may negotiate on behalf of their members, but the Ministry of Labor can order compulsory arbitration. FENASEP leaders noted that collective bargaining claims were heard and recognized by employers but did not result in tangible results or changes, particularly in cases of dismissals without cause.

According to the labor code, the majority of private-sector employees must support a strike, and strikes are permitted only if they are related to the improvement of working conditions, a collective bargaining agreement, for repeated violations of legal rights, or in support of another strike of workers on the same project (solidarity strike). In the event of a strike, at least 20 to 30 percent of the workforce must continue to provide minimum services, particularly public services as defined by law, such as transportation, sanitation, mail delivery, hospital care, telecommunications, and public availability of essential food.

Strikes in essential transportation services are limited to those involving public passenger services. The law prohibits strikes for Panama Canal Authority (ACP) employees but allows professional associations to organize and bargain collectively on issues such as schedules and safety, and it provides arbitration to

resolve disputes. (The ACP is an autonomous entity, with independence from the central government).

The Ministry of the Presidency Conciliation Board hears and resolves public-sector worker complaints. The board refers complaints it cannot resolve to an arbitration panel, which consists of representatives from the employer, the professional association, and a third member chosen by the first two. If the dispute cannot be resolved, it is referred to a tribunal under the board. Observers, however, noted that the Ministry of the Presidency had not designated the tribunal judges. The alternative to the board is the civil court system.

Cases presented in the courts tend to favor employers. FENASEP noted that one public-sector institution had appealed more than 100 complaints to the Supreme Court, only two of which resulted in rulings in favor of the public-sector employee. While Supreme Court decisions are final, labor organizations may appeal their case results in international human rights courts.

One labor strike and labor protest occurred during the year. Workers at the Balboa port conducted a July 17-28 strike against Panama Ports' decision to appeal collective agreement negotiations in the Supreme Court. (Note: Panama Ports was previously owned by the state but was privatized, and a Hong Kong-based company won the concession. End note). According to reports, these appeals subsequently delayed salary increases and working condition improvements. The strike ended on July 29, after the Ministry of Labor mediated an agreement between port workers and employers that promoted worker safety regulations and business economic welfare.

The Allied Association of Transport Port Ex-Employees' (ASOTRAP) hosted an August labor walk to the Panamanian Presidency to pressure both the Inter-American Commission of Human Rights and the Cortizo Administration to address claims that terminated Balboa and Cristobal port workers did not receive severance pay guaranteed by law when those ports were privatized. ASOTRAP asserted that because the termination occurred after August 15, former workers were entitled to the Panamanian 13th Month Bonus, a program in which workers receive one month's wages annually (one-third paid April 15, one-third paid August 15, and the last third on December 15). ASOTRAP also contended that the Inter-American Commission of Human Rights had not made a ruling on the case. Although the commission sent ASOTRAP a letter acknowledging receipt of the case in 2015, ASOTRAP contended that the commission had not made a final case ruling.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced labor of adults or children, as well as modern-day slavery and human trafficking. The law establishes penalties sufficiently stringent to deter violations. The government effectively enforced the law. There continued to be reports of Central and South American and Chinese men exploited in forced labor in construction, agriculture, mining, restaurants, door-to-door peddling, and other sectors; traffickers reported using debt bondage, false promises, lack of knowledge of the refugee process and irregular status, restrictions on movement, and other means. There also were reports of forced child labor (see section 7.c.).

Also, see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits all of the worst forms of child labor. The law prohibits the employment of children younger than 14, although children who have not completed primary school may not begin work until 15. The family code permits children ages 12 to 14 to perform domestic and agricultural work with regard to schedule, salary, contract, and type. The law allows children ages 12 to 15 to perform light work in agriculture if the work is outside regular school hours. The law also allows a child older than 12 to perform light domestic work and stipulates employers must ensure the child attends school through primary school. The law neither defines the type of light work children may perform nor limits the total number of light domestic work hours these children may perform. The law prohibits children younger than 18 from engaging in hazardous work but allows children as young as 14 to perform hazardous tasks in a training facility, in violation of international standards.

Minors younger than 16 may work no more than six hours per day or 36 hours per week, while those ages 16 and 17 may work no more than seven hours per day or 42 hours per week. Children younger than 18 may not work between 6 p.m. and 8 a.m. The government effectively enforced the law, and penalties were sufficient to deter violations.

The National Commission for the Prevention of Sexual Exploitation of Children and Adolescents conducted 59 awareness meetings in vulnerable communities, with the participation of the Ministry of Education and the Ministry of Social

Development. Its actions focused on regions sensitive to sexual exploitation of minors in tourism locations, including Panama City, Bocas del Toro, Cocle, and Chiriqui. Criminal enforcement agencies investigated 398 reports of commercial sexual exploitation of children during 2018, compared with 920 in the previous year. The country is a source, transit point, and destination for men and women exploited in forced labor. Children were exploited in forced labor, particularly domestic servitude, and sex trafficking. The law includes punishment of up to 12 years' imprisonment for anyone who recruits children younger than 18 or uses them to participate actively in armed hostilities.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination regarding race, gender, religion, political opinion, citizenship, disability, social status, and HIV status. The law does not prohibit discrimination based on sexual orientation or gender identity. Although the country is a member of the International Equal Pay Coalition, which promotes pay equality between women and men, a gender wage gap continued to exist.

Despite legal protections, discrimination in employment and occupation occurred with respect to race, sex, gender, disability, sexual orientation or gender identity, and HIV-positive status. During the job interview process, applicants, both citizens and migrants, must complete medical examinations, including HIV/AIDS testing. The law requires all laboratories to inform applicants an HIV test will be administered, but private-sector laboratories often did not comply. It was common practice for private-sector human resources offices to terminate applications of HIV-positive citizens without informing the applicant. While private laboratories often informed law enforcement of HIV-positive migrants, the National Immigration Office did not engage in deportation procedures specifically based on a migrant's HIV status. NGOs noted that during job interviews, women were often asked if they were married, pregnant, or planned to have children in the future. It was common practice for human resources offices to terminate the applications of women who indicated a possibility of pregnancy in the near future (see section 6).

#### **e. Acceptable Conditions of Work**

The law provides for a national minimum wage only for private sector workers. The wage was above the poverty line. Public servants received lower minimum wages than their private-sector counterparts. Most workers formally employed in urban areas earned the minimum wage or more. As of August 2018, approximately 43 percent of the working population worked in the informal sector, and some earned well below the minimum wage. The agricultural sector, as well as the maritime and aviation sectors, received the lowest and highest minimum wages, respectively. The Ministry of Labor was less likely to enforce labor laws in most rural areas (see section 6, Indigenous People).

The law establishes a standard workweek of 48 hours, provides for at least one 24-hour rest period weekly, limits the number of hours worked per week, provides for premium pay for overtime, and prohibits compulsory overtime. There is no annual limit on the total number of overtime hours allowed. If employees work more than three hours of overtime in one day or more than nine overtime hours in a week, excess overtime hours must be paid at an additional 75 percent above the normal wage. Workers have the right to 30 days' paid vacation for every 11 months of continuous work, including those who do not work full time.

The Ministry of Labor is responsible for setting health and safety standards. Standards were generally current and appropriate for some of the industries in the country. The law requires employers to provide a safe workplace environment, including the provision of protective clothing and equipment for workers.

The Ministry of Labor generally enforced these standards in the formal sector. The inspection office consists of two groups: The Panama City-based headquarters group and the regional group. The number of inspectors and safety officers was insufficient to enforce labor laws adequately. As of July the Ministry of Labor had conducted 9,397 safety inspections nationwide. Fines were low and generally insufficient to deter violations. During the year, however, the government levied fines according to the number of workers affected, resulting in larger overall fines.

Reports of violations relating to hours of work were frequent, especially in the maritime sector, where unions reported shifts of 14 to 24 hours. There were allegations indicating that neither the Panamanian Maritime Authority nor the Ministry of Labor conducted inspections of working conditions in the maritime sector. The ACP unions and workers experienced difficulties accessing the justice system to adjudicate complaints due to delays and other deficiencies of the Labor Relations Board, which is the court of first instance on labor matters for the autonomous ACP. Reports also indicated violations relating to hours of work for



coffee harvest workers, who often lacked formal contracts and were vulnerable to coercion from employers.

Employers often hired employees under short-term contracts to avoid paying benefits that accrue to long-term employees. Employers in the maritime sector also commonly hired workers continuously on short-term contracts but did not convert them to permanent employees as required by law. The law states that employers have the right to dismiss any employee without justifiable cause before the two-year tenure term. As a result, employers frequently hired workers for one year and 11 months and subsequently dismissed them to circumvent laws that make firing employees more difficult after two years of employment. This practice is illegal if the same employee is rehired as a temporary worker after being dismissed, although employees rarely reported the practice.

Inspectors from the Ministry of Labor and the occupational health section of the Social Security Administration reported conducting periodic inspections of hazardous employment sites. The law requires the resident engineer and a ministry safety officer to remain on construction sites, establish fines for noncompliance, and identify a tripartite group composed of the Chamber of Construction, the construction union SUNTRACS, and the ministry to regulate adherence.

Some construction workers and their employers were occasionally lax about basic safety measures, frequently due to their perception that it reduced productivity. Equipment was often outdated, broken, or lacking safety devices, due in large part to a fear that the replacement cost would be prohibitive. In August a construction worker died in the city of David after falling 39 feet off a beam while working on a shopping center construction project. After his death, the Union of Construction Workers announced a temporary work stoppage on the project.