

PANAMA 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Panama is a multiparty constitutional democracy. In May 2019 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 is principally responsible for internal law enforcement and public order, and the National Border Service handles border security. Civilian authorities maintained effective control over the security forces. Members of security forces committed few abuses.

Significant human rights issues included restrictions on free expression and the press, including through censorship and criminal libel lawsuits.

The government has mechanisms to investigate and punish officials who may commit human rights abuses, but information on the process and results of investigations were rarely made public.

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.

Impunity among security forces existed due to weak and decentralized internal control mechanisms for conduct and enforcement. The largest security force, the

Panama National Police, has an internal affairs office, responsible for enforcing conduct violations, but it withdrew from past efforts to modernize. 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, making the extent of impunity difficult to gauge. National police authorities provided training and information to officers to discourage involvement with narcotics trafficking and corruption.

Prison and Detention Center Conditions

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

Physical Conditions: According to the Ministry of Government's National Directorate of the Penitentiary System (DGSP), as of October the prison system held 17,895 prisoners in facilities with an intended capacity of 14,591 inmates. 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 were poor, with some facilities overcrowded, inadequate inmate security and medical care, and a lack of basic supplies for personal hygiene.

Evangelical pastors and gang leaders tightly controlled the pavilions inside the prisons. Two separate nongovernmental organizations (NGOs) reported perceived favoritism towards evangelical inmates who appointed themselves "leaders of the prison pavilions." NGO representatives reported that perceived corruption within the prison system enabled these "leader" inmates to receive privileges, most likely requiring the collaboration of police or civilian custodians. Other inmates had to secure approval of these "leaders," which often involved payment of bribes, to obtain expedited transfers or access to their legal counselors.

Gang activity in prisons represented a daily threat to prisoner safety. Deficient prison security management contributed to a December 2019 massacre in La Joyita Prison, resulting in 13 deaths and 14 persons injured. NGO representatives said prison security personnel were likely complicit in the smuggling of AK-47s and other firearms used in the killings.

Despite various sanitary protocols implemented due to the pandemic, medical care overall was inadequate due to lack of personnel, transportation, and medical resources. As of September there were no vaccination campaigns in prisons.

Authorities transferred patients with serious illnesses to public clinics, but there were constant difficulties in arranging inmate transportation. The DGSP lacked ambulances. Transfer of inmates depended on the availability of police vehicles or the limited national ambulance system.

As of September, 2,134 inmates had tested positive for COVID-19, six of whom died. Owing to the pandemic, authorities put 923 inmates who had completed two-thirds of their sentences or had chronic illnesses under house arrest to reduce overcrowding. Bureaucracy within the Public Ministry, DGSP, and courts prevented the release of additional inmates who qualified for release.

Administration: Authorities conducted investigations of credible allegations of mistreatment. Representatives from the Ombudsman's Office and the judicial system reported it was difficult for them to receive access to DGSP authorities.

Independent Monitoring: The government permitted prison monitoring by independent nongovernmental observers. The Ombudsman's Office prisons officer visited prisons, including an unannounced visit by the ombudsman in September, but due to the pandemic, visits had to be limited and prearranged. Human rights NGOs seeking access to prisons 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. Early during the COVID-19 pandemic, individuals violating the curfew were arrested and had no legal representation due to the strict lockdown. After experiencing negative news reports and civil society protests on social media, the government issued a decree waiving movement restrictions for lawyers. There were several instances of abuse of authority by police agents while carrying out detentions during curfew times.

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. During the pandemic there were numerous complaints of abuse of authority by police agents detaining persons during the quarantine and curfew. Most complaints focused on

the verbal mistreatment of citizens at checkpoints, but there were instances when police applied physical force while conducting alcohol tests during the curfew.

Legal cases opened prior to the transition to the accusatory justice system (SPA) continued to be processed under the previous inquisitorial system. Both systems demonstrated vulnerabilities to corruption, inefficiencies, and bureaucratic obstacles. Due to the pandemic, the judicial branch was closed from mid-March through June, thereby delaying administration of any pending cases. Hearings to reduce the prison population to avoid spread of COVID-19 infections were held from April to May, but the regular absence of the public defenders contributed to more delays. Informality in the judicial processes, such as sending documents through mobile messenger platforms instead of official emails, became the norm for some lower-level court judges, thus jeopardizing the transparency of the judicial process.

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 bail procedure exists for a limited number of crimes but was 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 that the Public Ministry was 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. Under the SPA, arrests and detention decisions were made on a probable cause basis.

Arbitrary Arrest: There were reports of arbitrary or unlawful detention. In one case police ordered a lesbian couple out of their private vehicle for kissing. They were detained, taken to a police station, and fined \$50 each for indecent public behavior before being released.

Pretrial Detention: According to official statistics, as of July approximately 40 percent of inmates had not been convicted, compared with 43 percent in the previous year. Full implementation of the SPA structure nationwide decreased the number of pretrial detainees consistently since 2016.

e. Denial of Fair Public Trial

While the law provides for an independent judiciary, the lack of criminal convictions on corruption charges supported widespread public opinion that the judicial system was susceptible to corrupt internal and external influence.

In a change from the previous year, most allegations of manipulation of the justice system related to the continuing influence of past regimes, notably those of the Ricardo Martinelli (2009-14) and Juan Carlos Varela (2014-19) administrations. While both former presidents were under separate investigations for a variety of corruption-related charges, including alleged money laundering and embezzlement, it was unclear to what extent loyalties to either former president influenced legal proceedings. Martinelli's 2018 extradition from the United States to face illegal wiretapping charges resulted in an August 2019 "not guilty" finding, with evidence and testimony excluded on procedural grounds. Despite a Supreme Court panel rejection of several grounds for annulment of the decision, the case remained under appeal before a lower court.

In August the Penal Court of the Supreme Court of Justice refused to hear a request from victims of former president Martinelli asking for the annulment of his trial at a lower-level court, where three new judges found him not guilty of illegally wiretapping their telephones and chat conversations. Also in August the Supreme Court denied a prosecutor's appeal of a 2019 decision by a three-judge panel that found Martinelli not guilty of any of the four criminal charges he faced. The court ruled, however, that a midlevel tribunal should see the request for appeal.

Unlike in accusatory system cases, court proceedings for cases in process under the inquisitorial system were not publicly available. 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 language interpretation available

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.

The fully implemented SPA system stipulates that trials must be completed in less than 18 months. Judges may order detainees to be present during the pretrial phase to provide or expand upon statements or to confront 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. During the pandemic, however, many inmates were not present at their hearings. Defendants may confront or question adverse witnesses and present their own witnesses and evidence. Defendants have a right to appeal.

The Public Defender's Office continued to fail to initiate the formal process for early release of inmates in a timely fashion, despite written instructions from the judicial branch. No disciplinary actions were taken.

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 did 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 may 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.

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 and slander lawsuits, which they considered a threat to freedom of expression and freedom of the press.

Violence and Harassment: In January, National Assembly vice president Zulay Rodriguez sued journalist Mauricio Valenzuela, of the online media outlet *Foco Panama*, in a family court with charges of gender-based violence, infringing the rights of a minor, and attacking her personal liberty and integrity. Valenzuela had reported Rodriguez' alleged involvement in a gold-trafficking case. Rodriguez requested a restraining order against Valenzuela and limitations on his use of technology and electronic devices against her. In February, Rodriguez alleged Valenzuela violated the restraining order, but a judge dismissed the case in July.

In October, National Assembly member Sergio Galvez publicly attacked the personal reputation of Radio Panama news anchor and political analyst Edwin Cabrera. While speaking on the floor of the assembly, Galvez accused Cabrera of having drinking problems and being a pedophile and questioned his sexual orientation. Since assembly members have immunity over what they say during their legislative sessions, Cabrera was unable to take legal action against Galvez.

Libel/Slander Laws: The law criminalizes defamation, and penalties include fines, imprisonment, or both. In June a civil court ordered the seizure of Corprensa's assets for 1.8 million balboas (\$1.8 million). Corprensa was overdue on posting a financial bail for more than one million dollars for a 2012 libel and slander lawsuit brought by former president Perez-Balladares. Corprensa had been appealing the case for seven years. The National Council for Journalism called the ruling the result of a "failed state that violates the principles and fundamental rights guaranteed by the constitution and international law."

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 but due to the pandemic, the government issued several resolutions limiting movements nationwide and closing entries through airports, ports, and borders. Limitations included strict quarantine rules and long curfews.

Government health authorities divided movement within communities based on gender. As COVID-19 spread, government movement restrictions unduly affected men--who were allowed to circulate only two days a week--while women were authorized to leave their homes three days a week. Movement within provinces was also forbidden unless the individual had a government-issued waiver. Local lawyers filed suits before the Supreme Court of Justice alleging the movement restrictions violated human rights. As of September the Supreme Court had not ruled on the complaints.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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, which normally takes two to three years, allows only asylum seekers admitted into the process the right to work. The asylum application process could take up to one year for applicants just to be admitted into the system, which was not a guarantee of asylum approval. ONPAR, like many other government offices, was required to work remotely during the pandemic. Movement restrictions reduced the number of asylum requests received, but ONPAR continued to receive requests through virtual referrals from NGO partners such as the Norwegian Refugee Council and Hebrew Immigrant Aid Society.

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 region did not have regular access to potable water and at times presented unsanitary conditions, especially when dealing with high volumes of migrants. Because of the closure of international borders due to COVID-19 restrictions, migrants remained in temporary camps in Darien for more than six months, resulting in at least one violent protest in which migrants burned property and clashed with government officers. Authorities reported continued migrations of persons from Cuba, Haiti, South Asia, India, and Africa, nearly all whom entered by foot through the Darien Gap, a roadless expanse of jungle on the eastern border with Colombia.

According to the UN High Commissioner for Refugees (UNHCR) and its NGO implementing partners, thousands of persons 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 they faced discriminatory hiring practices. 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, used a mobile registry office on their common border to register indigenous Ngobe and Bugle seasonal workers who travelled between the two countries and whose births were 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.

Elections and Political Participation

Recent Elections: In May 2019 voters chose Laurentino Cortizo Cohen as president in national elections that independent observers considered generally free and fair. Elected at the same time were national legislators, mayors, local representatives, and council members. A group of international observers from the Organization of American States, the EU, electoral NGOs, regional electoral authorities, and 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. Six registered political parties and five movements filed their paperwork with the Electoral Tribunal in September to gain temporary recognition as political parties, including one led by former president Martinelli and the 2019 third runner-up, Ricardo Lombana (Movimiento Otro Camino, or Another Path Movement). The Electoral Tribunal confirmed recognition for Lombana's party in January and for Martinelli's party in September.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups 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. Corruption remained a serious 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 the courts dismissed high-profile corruption cases due to "lack of evidence" or "procedural mistakes" by the prosecutors. In September the Supreme Court dismissed the Tonosi Irrigation millionaire embezzlement case against several 2009-14 administration authorities, including former president Martinelli.

Two former presidents, Ricardo Martinelli and Juan Carlos Varela, and two former ministers, Demetrio "Jimmy" Papadimitriou and Jaime Ford, were under investigation for corruption related to the Odebrecht case. Martinelli was also

accused of using \$43 million in public funds to purchase the pro-Martinelli Editora Panama America newspaper group.

There were also allegations of corruption by the sitting administration. Several high-profile scandals related to procurements to combat the coronavirus pandemic emerged during the year. In April and September, the Public Ministry opened separate investigations against central government institutions for allegedly overpaying for ventilators as well as purchasing used ventilators.

Corruption and a lack of accountability among police continued to be a problem. In July authorities filed weapons and weapons-trafficking charges against more than 25 individuals, most of whom were high-level security officials during the previous government. The charges involved the illegal distribution to the officials of legally imported weapons, some designated “weapons of war.” The Public Security Affairs Directorate, the office within the Security Ministry that regulates and licenses firearms, was associated with corruption in the past, and at least two former officer directors were facing charges, with one of them implicated in the July weapons-trafficking case.

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 executive or judiciary 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 making public their findings on human rights cases.

Government Human Rights Bodies: The ombudsman, elected by the National Assembly, is an office with moral but not legal authority. The Ombudsman’s Office refers cases to the proper investigating authorities. In August the National Assembly elected a commercial lawyer as the new ombudsman. Opposition assembly members and civil society criticized his lack of experience in the human rights field.

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. In August the Supreme Court began a case against National Assembly member Arquesio Arias, a Guna Yala native, for sexual assault. Arias was a physician in his indigenous *comarca* (a legally designated semiautonomous area) and was denounced by several Guna Yala women for sexual misconduct and abuse. A second case was opened against Arias in September, again based on charges of sexual misconduct.

The law against gender violence stipulates stiff penalties for harassment, gender-based violence, and both physical and emotional abuse. The law states that sentencing for femicide is 25 to 30 years in prison. The law was not effectively enforced. Officials and civil society organizations agreed that domestic violence continued to be a serious crime.

As of October the Public Ministry had reported 12,540 new cases of domestic violence nationwide, including three attempts of femicide and 24 femicides, an increase of almost 50 percent in femicides from July 2019. The province of Colon and Ngobe-Bugle Comarca led the numbers with six femicides each, followed by San Miguelito Special District with five cases.

The Ombudsman's Office continued its program *Mujer Conoce tus Derechos* (Woman, Know Your Rights), which began distributing pamphlets in supermarket chains located outside the province of Panama. The National Institute for Women's Affairs continued to operate its 24/7 hotline 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 Specialized Unit for Domestic and Gender Violence within the police department.

Reported cases of domestic violence plummeted during the lockdown period following the president's emergency declaration in the face of the coronavirus pandemic. Some government officials credited the government's "dry law," which prohibited alcohol sales from March 25 through June 22, for a reduction in violence. Women's rights organizations, however, considered closed government offices and limited access to the justice system as principal reasons for the reduction in reported cases.

Sexual Harassment: The law prohibits sexual harassment in cases of employer-employee relations in the public and private sectors and in teacher-student relations but not between colleagues. 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 (only 15 cases had been reported as of August).

In August a female pilot at the National Aeronaval Service (SENAN) filed a criminal complaint for sexual harassment against her immediate supervisor. The Public Ministry opened an investigation and ordered SENAN authorities to transfer four individuals to different offices. In September the ombudsman made an unannounced visit to SENAN headquarters and discovered that the pilot in question experienced workplace harassment after she filed the criminal complaint. The man accused of the harassment was transferred to another department and given new duties, while the female accuser was stripped of all duties and relegated to sitting in a corner without a desk. Additionally, restrooms for women at SENAN remained locked due to the pending case. Women needed to obtain a key from a specific office to access their restrooms, while restrooms for men continued to be open at all times.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: The law prohibits discrimination based on gender, and women enjoyed the same legal status and rights as men, but the law was not enforced. For example, SENAN permitted female pilots to fly only as copilots, while male newcomers with less seniority were allowed to fly as principal pilots without restrictions. The law recognizes joint property in marriages. The law does not mandate equal pay for men and women in equivalent jobs. Some employers continued to request pregnancy tests, although it is an illegal hiring practice. The law puts restrictions on women working in jobs deemed hazardous.

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 July reported that 2,887 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.

Child, 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 prosecuted cases of sexual abuse of children, including within indigenous communities. Ministry officials believed commercial sexual exploitation of children occurred, including in tourist areas in Panama City and in beach communities, although they did not keep separate statistics. As of July only one case of child sexual tourism was reported.

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. Disability rights NGOs noted for the second consecutive year that Metro elevators were frequently locked and could not be used. A lack of ramps further limited access to the old stations, although the 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.

The National Secretariat for Persons with Disabilities continued with its free shuttle service from the city's largest bus terminal for individuals with disabilities who 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, since 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 for children with significant physical disabilities living in poor conditions. As of July the program had more than 19,100 beneficiaries. There were no additional efforts from the authorities to assist persons with disabilities during the pandemic movement restrictions. In addition one wing at the public Physical Rehabilitation Institute was adapted for COVID-19 patients, reducing the availability of space and times for patients with disabilities to receive their scheduled therapies.

COVID-19-related lockdown regulations by the health authorities further limited the mobility of persons with disabilities, who were unable to access public and private facilities to obtain medications. The movement restrictions imposed during the gender-based lockdown disproportionately affected individuals with disabilities whose caretakers were of the opposite sex. In August a young man with Down syndrome and his adult sister, who was serving as his companion, were detained by security agents because they left their home on a Saturday, a day designated for

only males to circulate. Their mother had to pay a fine of \$50 to obtain their release. An NGO submitted a legal complaint against the authorities. Legal companions also faced difficulties obtaining mobility permits from government agencies to accompany their patients.

Members of National/Racial/Ethnic Minority Groups

Minority groups were generally integrated into mainstream society. Prejudice was directed, however, at recent legal immigrants, the Afro-Panamanian community, and indigenous Panamanians.

The Afro-Panamanian community was underrepresented in governmental positions and in 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 (SENADAP) focused on the socioeconomic advancement of this community. In August the government appointed a new head of SENADAP, Krishna Camarena-Surgeon, a native of Colon, considered by observers to be well equipped to head an institution whose mission is to promote the rights and development of the Afro-Panamanian community.

The law prohibits discrimination in access to public accommodations such as restaurants, stores, and other privately owned establishments; no complaints were filed. Lighter-skinned individuals continued to be overrepresented in management positions and jobs that required dealing with the public, such as bank tellers and receptionists.

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 for five of the country's seven indigenous groups.

One of the groups faced internal governance problems, since it did not have legally elected authorities, and the pandemic prevented the elections scheduled for March.

This complicated receiving and using government funds allotted to combat the spread of the COVID-19 virus.

The government unofficially recognized eight other traditional indigenous government authorities, on the basis that these eight regions were traditionally organized indigenous settlements and territories that were excluded from the constitution when the original comarcas were designated in 1938. All of these traditional government authorities are organized under a national coordinating body for indigenous affairs, the National Coordinator of Indigenous Peoples. In August the coordinating body requested a high-level meeting with government authorities to discuss discrimination against indigenous peoples during the government's COVID-19 response. Issues discussed included the lack of culturally sensitive information during the government's COVID-19 response, which caused the disease to spread unchecked for several months in many indigenous communities, and lack of communication between indigenous authorities and the government.

Government officials 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. Several Embera communities in Darien Province claimed that illegal settlers continued to enter their lands during the COVID-19 pandemic, despite the nationwide movement restrictions, and that their complaints to the authorities were not being addressed. In November the Supreme Court of Justice ruled the Naso Comarca is constitutional; formal notification was pending to begin the legal process for its creation.

The Ngobe and Bugle peoples 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 two groups and the government continued to negotiate details of the dam's operation.

Although the law is the ultimate authority in indigenous comarcas, many indigenous peoples had not received sufficient information to understand their rights. Additionally, due to the inadequate educational system available in the comarcas, many indigenous peoples were unaware of or failed to use available legal channels.

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.

Access to health care continued to be a significant problem for indigenous communities, primarily due to poor infrastructure and culturally inadequate strategies implemented by health authorities during the COVID-19 pandemic. Several members of the Guna Yala tribe died of COVID-19 because they refused treatment and transfer to medical facilities due to fear and lack of understanding of the disease as well as a lack of trust in modern medicine. In the early stages of the pandemic, local leaders refused health authorities entry into their communities for testing purposes. Deficiencies in the educational system deepened during the COVID-19 pandemic at all levels. Although the public school system reopened virtually in July, the comarcas typically had very limited access to internet and radio signals. These technological barriers prevented indigenous students from accessing educational opportunities.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

During the COVID-19 pandemic, lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons reported harassment by government and private security forces. The government instituted a five-month gender-based nationwide quarantine lockdown, regulating movement according to gender and the last number of one's national identification card. During this period the transgender community was disproportionately affected by these restrictions, since transgender persons did not identify by the biological sex listed on their identification cards. Transgender persons were singled out for profiling by police and private security guards, and in some cases they were arrested, harassed, and fined or prevented from buying groceries during their scheduled hours. Discrimination from security forces occurred regardless of whether they attempted to go out on days assigned to their biological gender or their transgender identity.

Local transgender activists collected and recorded dozens of examples of harassment of transgender persons. In one prominent case, on April 9, police in Panama Province detained a transgender woman when she attempted to enter a supermarket. April 9 was a day designated for men to circulate, so the woman presented her national identification card to police officers, but they took her to a

nearby police station, where they physically and sexually assaulted her and mocked her for being a man during a body search. She also claimed that police threatened to put her in a cell with 200 men. Police made her pay a fine of \$50 to be released.

On May 11, the Ministry of Security tweeted that it had instructed its security services to observe the rights of the LGBTI population: specifically, the right to movement to buy food and medicine and to not be detained or harassed while attempting to do so. Ministry officials did not clarify if transgender individuals could circulate on days that matched their gender instead of the biological sex listed on their identification cards; as a result transgender activists reported many persons in their community were afraid to leave their homes due to the lack of official clarity.

Despite the ministry's statement, the transgender community reported discrimination and harassment from the national police and private security forces, according to transgender activists. On July 15, the government issued a press release regarding transgender rights, but it was placed in inconspicuous locations in daily newspapers and was not published online. The transgender community continued to report cases of police discrimination until the movement restrictions were relaxed on August 24. In September transgender activists said many members of their community had not left their residences for more than five months due to fear of harassment and discrimination.

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.

HIV and AIDS Social Stigma

The law prohibits discrimination against persons with HIV and 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 with HIV or AIDS reported mistreatment by health-care workers, including unnecessary quarantines.

Human rights NGOs reported receiving complaints of labor discrimination when employers learned employees were HIV positive, despite the fact that the law prohibits discrimination against persons with sexually transmitted diseases, as well as against 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. Employers may be fined for not keeping an employee's medical condition confidential. The government was not active in preventing discrimination against persons with HIV and AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for private-sector workers to form and join independent unions, bargain collectively, and conduct strikes. By law the majority of public-sector employees may strike but may not organize unions. Instead, those public-sector employees may organize a professional association to bargain collectively on behalf of its members, although the public entity is not legally obligated to bargain with the association. The National Federation of Public Servants (FENASEP), an umbrella federation of 25 public-sector worker associations, traditionally fought to establish 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 this right.

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 applications for formation of seven public-sector and 10 private-sector unions.

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 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 the authority to resolve certain labor disagreements within the private sector, such as internal union disputes, enforcement of the minimum wage, and some dismissal issues. For example, as a mediator in biennial minimum wage negotiations between unions and businesses in 2019, the minister of labor announced a minimum wage increase of 3.3 percent when negotiations failed. The minimum wage increase took effect in January.

Government regulations on union membership 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. 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, to 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 as essential, 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 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 canal authority is an autonomous entity, independent from the national government.

The Ministry of the Presidency Conciliation Board is responsible for resolving 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.

Outcomes of cases presented in the courts tended to favor employers. FENASEP noted that one public-sector institution had appealed more than 100 complaint decisions 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.

In August, two union organizations, the National Confederation of United Independent Unions and the National Council of Organized Workers, presented lawsuits to the Supreme Court against Ministry of Labor decrees issued in March that permitted businesses to furlough workers and modify working hours, in an attempt to mitigate the COVID pandemic's impact on businesses. The decrees were followed by laws in August that extended these provisions through the end of the calendar year. According to the unions, these changes violate the labor code emergency provisions, which only permit furloughs for up to four months.

The Allied Association of Transport Port Ex-Employees (ASOTRAP) held a protest in September to pressure both the Inter-American Commission on 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 the ports were privatized. In 2015 ASOTRAP filed a case before the commission, but as of November the commission had not accepted the case. The case represented 139 port workers who were dismissed during the 1996 privatization of the Balboa and Cristobal ports in former president Perez-Balladares' administration.

The government effectively enforced the law in the formal sector but was less likely to enforce the law in most rural areas (see section 6, Indigenous People). The government and employers respected freedom of association, inspection was adequate, and penalties for violations were commensurate with similar offenses.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of human trafficking, including forced labor of adults and children. The penal code requires movement to constitute a trafficking offense, which is inconsistent with international protocols. The law establishes criminal penalties commensurate with those for other similar serious crimes. The government effectively enforced the law and prosecuted five cases involving 12 persons for sex trafficking in 2019. 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 age 14, although children who have not completed primary school may not begin work until age 15. 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 work-training facility, in violation of international standards.

Minors younger than age 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 inconsistently enforced the law; criminal penalties were commensurate with those for similar crimes but were not enforced in all sectors. Children were exploited in forced labor, particularly domestic servitude, and sex trafficking.

In September a three-judge panel of a trial court in Penonome, Cocle Province, sentenced two traffickers to six years and eight months in prison and payment of \$2,000 in damages to the victim, a 17-year-old girl of the Ngobe-Bugle indigenous group. The girl had been enticed to Cocle Province under false promises of a salary of \$100 per month, then denied access to her family, mistreated, and compelled to work as a maid. This was the country's first sentence for human trafficking through forced labor exploitation.

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, sex, 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, and no law mandates equal pay for equal work. The law puts restrictions on women working in jobs deemed hazardous.

The government did not effectively enforce the law, and penalties were not commensurate with those for similar crimes. Despite legal protections, discrimination in employment and occupation occurred with respect to race, sex, disability, 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, Women). Persons with disabilities continued to face discrimination in hiring and accessing the workspace.

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 wages than their private-sector counterparts. Most workers formally employed in urban areas earned the minimum wage or more. Approximately 45 percent of the working population worked in the informal sector, and some earned well below the minimum wage; the Ministry of Labor estimated COVID-19 would increase the informal labor participation in the market to as much as 55 percent by year's end.

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 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. Equipment was often outdated, broken, or lacking safety devices, due in large part to a fear that the replacement cost would be prohibitive. After the beginning of the pandemic, all workplaces were required to establish a health committee to enforce the mandatory health standards established by the Ministry of Health.

The Ministry of Labor generally enforced the law 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 sufficient to enforce labor laws adequately in the formal sector. As of July, due to pandemic limitations, the ministry conducted 4,060 safety inspections, a decrease of 57 percent from the same period in 2019. Fines were low and not commensurate with those for similar violations. During the year, however, the government levied fines according to the number of workers affected, resulting in larger overall fines.

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 during 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.

Construction was the most dangerous sector for workplace accidents. Equipment was often outdated, broken, or lacking safety devices. In February a construction worker in Capira District, in the province of West Panama, died in a work-related accident. In late May another construction worker fell from the fourth floor of a building in Panama City on which he was working. He was injured but survived the accident. In June a construction worker died in an accident at the Manzanilla International Terminal in Colon. The accident occurred when a crane lifting a container onto a ship accidentally dropped it and hit the worker in the head.