



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### List of issues in relation to the fourth periodic report of Panama\*

#### Constitutional and legal framework within which the Covenant is implemented (arts. 1 and 2)

1. In the light of the Committee's previous concluding observations (CCPR/C/PAN/CO/3), please provide information on the establishment of a specific mechanism or procedure for implementing the Committee's Views and give examples of cases in which the domestic courts have invoked the provisions of the Covenant. Please provide information on the content of the training programmes run for justice officials and on activities carried out to raise public awareness of the Covenant rights and the fact that they are directly applicable under national law. Please also provide information on the rights affected by the measures taken to combat COVID-19 and whether the State party has taken the steps necessary to derogate from the application of any rights protected under the Covenant.

2. Please provide information on the Ombudsman's Office and on the dismissal of the Ombudsman by decision of the National Assembly in October 2019, following reports of sexual abuse and workplace harassment. Please also explain the measures taken to guarantee the independence and proper functioning of the Ombudsman's Office, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

#### Human rights violations during the dictatorship era (arts. 2, 6 and 7)

3. Please provide information on steps taken, pursuant to the Committee's previous concluding observations (para. 7), to ensure that all cases of serious human rights violations, including those documented by the Truth Commission, are duly investigated, that the persons responsible are brought to justice and, where appropriate, punished and that the victims or their families receive fair and adequate compensation. Please also provide information on the legislation regulating the statute of limitations for serious human rights violations.

4. Please provide information on progress in the search for and identification of the remains of persons who were disappeared during the military dictatorship. In particular, please provide information on the measures taken with respect to the cases of Ricardo Baena, Heliodoro Portugal and Rita Wald, including the investigations conducted and the reparation measures ordered. In this respect, please provide information on the exhumation of the remains that have been identified thus far, including the exhumation of the remains of Heliodoro Portugal carried out in March 2020.

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\* Adopted by the Committee at its 129th session (29 June–24 July 2020).



**Non-discrimination (arts. 2, 3, 26 and 27)**

5. Please provide statistical information on complaints of discrimination received during the period under review, specifying the grounds for discrimination, the investigations conducted and their outcome, and the redress granted to the victims. Please also comment on the measures taken to combat and prevent acts of discrimination, stigmatization and violence against HIV-positive persons.

6. Please explain the measures taken to prevent and to provide protection from violence and discrimination based on sexual orientation or gender identity, particularly in respect of transgender persons in detention, and the impact of those measures. Please provide information on: (a) the number of complaints received regarding violence against lesbian, gay, bisexual or transgender persons; (b) investigations conducted and their outcomes, including the sentences handed down to perpetrators; and (c) the reparative measures granted to victims. Please also comment on reports that the COVID-19 policy ordering a “lockdown” on alternate days for men and women had a discriminatory effect on transgender persons. In this context, please comment on the initiative of the Ombudsman’s Office to establish clear protocols in partnership with government entities to prevent discrimination and violence against vulnerable segments of the population, including lesbian, gay, bisexual, transgender and intersex persons.

7. Please provide detailed, up-to-date information on the steps taken to combat discrimination and to establish effective mechanisms for monitoring compliance with labour legislation and regulations applying to domestic staff. Please provide information on existing inspection mechanisms and comment on reports that domestic workers, especially those of African descent, often work up to 12 hours a day, frequently facing abuse from their employers and not receiving social security benefits or the minimum wage established for other workers.

8. In the light of the Committee’s previous concluding observations (para. 8) and the information provided by the State party in its periodic report (CCPR/C/PAN/4, paras. 12–17), please provide updated information on the implementation of article 12 of the Constitution with regard to the possibility of denying applications for naturalization on the grounds of physical or mental disability, as well as on initiatives to review this provision. Please also provide information on the steps taken to combat discrimination against persons with disabilities.

9. Please comment on the measures taken by the State party to combat discrimination against persons of African descent and indigenous communities, especially with respect to access to education, health services, justice and employment. In the light of the Committee’s previous concluding observations (para. 17), please also describe the measures taken to address the low participation of women, including indigenous women, in political life.

**Equality between men and women (arts. 2, 3, 25 and 26)**

10. In the light of the Committee’s previous concluding observations (para. 16), please provide information on measures taken to eliminate gender stereotypes. Notwithstanding the information provided by the State party in its periodic report (para. 93) that requesting women to undergo pregnancy tests is prohibited by law, please comment on the information received by the Committee according to which this practice is still included as a requirement for access to employment, and provide information on the penalties applied in such cases. With reference to the information provided by the State party in its periodic report (paras. 65–88), please provide information on the results of the measures taken to reduce the wage gap between men and women.

**Violence against women, including domestic violence (arts. 2, 3, 6, 7, 14, 24 and 26)**

11. With reference to the previous concluding observations (para. 18) and paragraphs 47 to 64 of the State party’s report, please provide information on the impact of the measures described with respect to the implementation of Act No. 82 of 24 October 2013 and whether the State party has established the necessary regulations for its effective implementation. Based on the statistical data provided by the State party, please clarify the reason for the sharp decrease in the number of cases of femicide registered at the national level between 2014 and

2018 and the low number of convictions in the same period. In this respect, please provide information on the measures taken to: (a) ensure that victims of violence are informed about the procedures for lodging complaints; (b) ensure that victims and their families have access to protective services, including public shelters and counselling and assistance centres; and (c) ensure that all cases of violence against women are investigated, that perpetrators are prosecuted and held to account and that the victims or their family members obtain compensation.

12. According to information received in the context of COVID-19, acts of violence against women, including femicide, have increased. For example, as of April 2020, cases of femicide apparently increased by 33 per cent compared to April 2019. Please provide information on measures taken to address this increase in the number of cases of domestic violence and femicide. Please also provide disaggregated data on the number of prosecutions and convictions during the period under review for cases of gender-based violence against women and girls, including domestic violence and femicide.

**Voluntary termination of pregnancy and reproductive rights (arts. 2, 3, 6, 7, 17, 24 and 26)**

13. In the light of the Committee's previous concluding observations (para. 9) and the State party's report (paras. 102–105), please provide information on the current status of legislative proposals aimed at revising the ban on abortion contained in articles 141–144 of the Criminal Code. In this respect, please provide updated information on (a) the number of women investigated and convicted for having an abortion in the last five years; (b) cases of women who have been denied medical assistance because they are pregnant, even if their life is at risk; and (c) any education and awareness-raising programmes conducted to highlight the importance of using contraceptives and the right to sexual and reproductive health and their target audience.

**Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 7, 9, 14 and 24)**

14. In relation to the Committee's previous concluding observations (para. 10) and the State party report (paras. 106–120), please: (a) report on the progress made towards including in criminal legislation a definition of torture that is fully in line with articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and with article 7 of the Covenant; (b) indicate the number and outcome of judicial and disciplinary proceedings instituted for acts of torture and ill-treatment, as well as the number of measures of redress granted to victims over the past five years; (c) clarify the complaints mechanisms available in the State party, including the prison mailbox and the Ombudsman's Office, for receiving complaints of torture and ill-treatment, as well as the investigations carried out through these mechanisms.

**Excessive use of force (arts. 2, 6, 7 and 14)**

15. Please identify and describe the legal standards under national law that govern the appropriate use of force and firearms by law enforcement and security forces during arrest, demonstrations, custody, and any other circumstances that may require the use of force. Please provide information on the number of criminal complaints received and investigations carried out in relation to the inappropriate use of force, particularly against persons of African descent, the convictions handed down and whether there are cases in which law enforcement officials have been granted immunity or special protection when they have used force. Please comment on whether the State party's laws on the use of force are in conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Please provide information on measures taken to ensure that these standards are respected in practice. Please provide information on the protests that took place in Colón and San Félix in 2012, any investigations into the excessive use of force by law enforcement officials and any convictions.

**Persons deprived of their liberty and conditions of detention (arts. 6, 7, 9, 10, 14 and 26)**

16. In the light of the Committee's previous concluding observations (para. 12) and the 2008 amendments to the Code of Criminal Procedure limiting the use of pretrial detention, please provide statistical data on the use, and average duration, of pretrial detention over the last five years. Please also clarify the legal time limits for pretrial detention and describe the steps taken to ensure that remand prisoners are separated from convicted prisoners.

17. In the light of the Committee's previous concluding observations (para. 11) and the information contained in the State party's report (paras. 155–162) on the construction of new detention facilities and the use of alternative measures to detention, please provide information on levels of overcrowding, disaggregated by detention facility, over the past five years. Please also provide information on the measures taken to improve conditions of detention, including access to drinking water and medical care. In this connection, please provide information on the measures taken to comply with the precautionary measures requested by the Inter-American Commission on Human Rights in respect of persons deprived of their liberty at the temporary detention centre of the National Air and Naval Service on Punta Coco island (see resolution 10/17 of 22 March 2017) and the urgent measures requested by the Inter-American Court of Human Rights on 26 May 2020 in the *Vélez Loor v. Panama* case to ensure the effective protection of the rights to health, personal integrity and life of persons in the La Peñita and Laja Blanca migrant camps in the province of Darién. Please provide information on conditions at the Punta Coco pretrial detention centre, which was established for persons deprived of their liberty who are classified as extremely dangerous (see resolution 058-R-045 of 4 July 2018), and whether the rights set out in the Covenant are respected there.

**Elimination of forced labour and trafficking in persons (arts. 7, 8, 14 and 24)**

18. Please provide information on the implementation and outcome of the National Plan of Action against Trafficking in Persons 2017–2022, as well as on other measures taken to prevent and eradicate trafficking in persons. Please include updated information on the scope of human trafficking in the State party; the training activities organized for law enforcement, judicial and migration officials; the operation of the Special Fund for Victims of Trafficking; and measures taken to offer protection, rehabilitation, reparation and reintegration services to victims, including the number of shelters available in the country. Please also provide statistical information relating to the period under review on the number of complaints of trafficking in persons received and on investigations conducted and their outcomes, including the sentences handed down to perpetrators.

**Independence of the judiciary and administration of justice (arts. 2 and 14)**

19. Please provide information on: (a) the measures adopted to combat corruption and political interference, particularly in the judiciary; (b) existing mechanisms to guarantee the independence of the judiciary, in particular the procedures for appointing judges and prosecutors, the regulations governing their tenure and the conditions in which they can be suspended or dismissed; and (c) corruption cases reported, investigations carried out and the penalties imposed on those responsible.

20. Please provide information on the establishment of a professional path for members of the judiciary and prosecution service and whether it complies with the provisions of the Covenant. In particular, please provide information on bill No. 239 of 30 January 2020, which amends and supplements Act No. 53 of 27 August 2015 regulating careers in the judiciary. In this connection, please provide information on the system for imposing disciplinary sanctions on judges, prosecutors and magistrates and indicate whether it ensures their impartiality and independence. Please provide information on measures to enhance training for judges, prosecutors, court staff and lawyers. Please comment on reports received by the Committee that the budget allocated to the justice system has been reduced in recent years and indicate whether the budget is sufficient.

21. Please provide information on judicial safeguards for persons with disabilities, including the availability of sign language interpreters in the State party, and comment on

reports that a sizeable number of persons with disabilities are deprived of their liberty without trial or conviction. Please also comment on information received by the Committee concerning racial discrimination in the administration of justice. In this regard, please provide information on the use of racial profiling and the number of persons of African descent in places of detention and comment on reports that the sentences handed down by the courts against persons of African descent are harsher, longer or less appropriate than those imposed on mestizo or white persons for the same offences.

**Freedom of expression and association and violence against human rights defenders (arts. 6, 7, 9, 19 and 22)**

22. Please provide information on the number of complaints of harassment, threats and violence against human rights defenders received in the past five years and on the outcomes of these complaints. In this connection, please describe the measures taken to guarantee the safety and physical integrity of human rights defenders and to ensure that they are able to exercise their profession fully without restrictions. Please provide information on the proposed creation of a standard for the protection of human rights defenders and a special rapporteur's office.

23. Please provide information on the guarantees in place to ensure the right to freedom of expression, in accordance with article 19 of the Covenant. Please comment on reports that journalists and media outlets have been subject to criminal and civil lawsuits seeking to protect the privacy and honour of political actors or because they have disclosed information on events of public interest. Please clarify whether defamation is an offence under the Criminal Code and, if so, whether this criminal provision has been applied by the courts during the reporting period.

24. Please indicate what measures the State party has taken to guarantee the right to freedom of association. Please comment on information received by the Committee according to which undue restrictions are placed on freedom of association, such as the requirement of a minimum of 40 persons to form a trade union in the private sector; that only one union is allowed per commercial establishment; and that the formation of trade unions is not allowed in certain areas, such as the banking sector, the Colón free trade zone and domestic work.

**Migrants, asylum seekers and refugees (arts. 2, 9, 10, 12, 13 and 26)**

25. In the light of the Committee's previous concluding observations (para. 14), please provide information on the implementation of Executive Decree No. 5 of 16 January 2018, which implements Act No. 5 of 26 October 1977 on the ratification of the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees and sets out new provisions for the protection of refugees, including the mandate of the National Commission for the Protection of Refugees. Please provide updated statistical data, disaggregated by sex and age, on the number of asylum seekers and refugees in the State party and on the outcome of their applications. Please also provide information on the average waiting time for asylum applications and on the number of persons waiting for their applications to be processed. In this connection, please explain how the State party ensures access to the national system of asylum for persons, including minors, in need of international protection at borders and throughout the national territory.

26. Please provide information on the camps for migrants and asylum seekers in the Darién region. In this regard, please comment on reports of unsanitary conditions in camps for migrants and asylum seekers, as well as poor hygiene, overcrowding and lack of access to medical care, drinking water and food. Please provide information on how the safety of migrants on the jungle routes in Darién is guaranteed, on the investigation of crimes, on access to justice for migrants who are victims of crimes, including women victims of gender-based violence, on the registration of migrant deaths, on the mass graves where they are buried, and on respect for due process for migrants in respect of whom international alerts have been issued because they are subject to judicial proceedings in other countries. Please also provide information on the operation of the agreement between Panama and Costa Rica for the controlled flow of persons, measures to protect migrants in custody and measures taken in the framework of the Central American Integration System.

**Rights of the child (arts. 16, 23 and 24)**

27. Please provide information on measures taken to prohibit, prevent and punish corporal punishment in all settings and to promote non-violent forms of discipline as an alternative to corporal punishment. In the light of the previous concluding observations (para. 20), please describe efforts made to ensure effective enforcement of the prohibition of child labour. Please also provide statistical information on the number of complaints received, investigations conducted, sentences handed down, penalties imposed, and protection and reparation measures granted, as well as prevention and awareness campaigns conducted.

28. In the light of the previous concluding observations (para. 19) and with reference to paragraphs 196 and 197 of the State party's report, please describe the measures in place to ensure that all children born in Panama, particularly in indigenous regions and remote areas, are registered without delay and receive an official birth certificate.

**Equality and non-discrimination and protection of the rights of persons belonging to ethnic minorities (arts. 2, 25, 26 and 27)**

29. Further to the Committee's previous concluding observations (para. 21) and the information provided by the State party (paras. 227–240), please provide information on the impact of the Plan for the Comprehensive Development of the Indigenous Peoples of Panama, particularly with regard to health and education. Please also provide information on the regulation of the consultation mechanisms or processes in place aimed at ensuring that the prior, free and informed consent of indigenous peoples is obtained for legislative or administrative measures or economic development projects that may affect them directly. Please also provide examples of consultations carried out during the period under review. In particular, please provide information on the process of demarcation and titling of the collective lands of the Emberá, Wounaan, Kuna, Buglé, Ngäbe, Naso and Bribi indigenous peoples. Please also provide information on the Barro Blanco hydroelectric project, the consultation process undertaken and its implications for the Ngäbe-Buglé community.

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