



# International Covenant on Civil and Political Rights

Distr.: General  
17 March 2023

Original: English

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## Human Rights Committee 137th session

### Summary record of the 3972nd meeting

Held at the Palais Wilson, Geneva, on Thursday, 9 March 2023, at 3 p.m.

*Chair:* Ms. Abdo Rocholl

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*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Fourth periodic report of Panama (CCPR/C/PAN/4; CCPR/C/PAN/Q/4;  
CCPR/C/PAN/RQ/4)*

1. *At the invitation of the Chair, the delegation of Panama joined the meeting via video link.*

2. **Mr. Tejada** (Panama), introducing his country's fourth periodic report (CCPR/C/PAN/4), said that Panama had ratified the main regional and universal human rights instruments and had made a commitment to accept all requests for visits from the special procedures mandate holders of the Human Rights Council. Recognizing that self-determination was a fundamental right, in 2021 the Government had launched an initiative known as the "Closing Gaps" (Cerrando Brechas) Bicentennial Pact, which had involved consulting with the population to build consensus on policies, laws and regulations. Under the Pact, members of the public had submitted 175,000 proposals, which had translated into 187 agreements that reflected the aspirations of all Panamanian citizens to achieve the Sustainable Development Goals and combat poverty and inequality. As part of institutional strengthening efforts, several decentralized institutions had been established, including the National Secretariat for Children, Adolescents and the Family, the National Secretariat for Persons with Disabilities, the National Institute for Women and, in 2019, the Ministry of Culture.

3. Panama had historically been a country of both transit and destination, a meeting point where multiple cultures coexisted. As a result, the Government rejected any act or doctrine that was based on notions of ethnic, political or cultural superiority or distinction or hampered the exercise of fundamental rights and guarantees. Seven Indigenous Peoples were recognized in Panama, each with their own customs, languages and geographically delimited jurisdictional systems, and, in application of its Plan for the Comprehensive Development of the Indigenous Peoples of Panama, launched in 2018, the Government was working to achieve lasting agreements with all of them through free, prior and informed consultation. A loan in the amount of \$85 million had been secured from the World Bank to fund the implementation of the Plan, which had three focuses: institution- and capacity-building to strengthen governance, which was shared between central government and Indigenous authorities; improving the quality and cultural appropriateness of public services in the 12 Indigenous territories; and monitoring the provision of health, education, water and sanitation services. Act No. 16 of 2002 prohibited discrimination on various grounds as well as any act that undermined the enjoyment of fundamental constitutionally protected rights.

4. Health was a priority issue in the country and health care was free of charge for persons with disabilities, Indigenous persons, persons of African descent, children, pregnant women and new mothers. In 2022, the Government had been awarded a United Nations Public Service Award for its innovative response to the coronavirus disease (COVID-19) pandemic, which had involved increasing national critical care capacity by 147 per cent. Through Act No. 297 of the same year, it had adopted the Beehive (Colmena) Plan, which guaranteed targeted social protection for communities affected by multidimensional poverty. In addition, during the pandemic, it had launched an emergency social assistance relief plan, referred to as Plan Panamá Solidario, which had benefited 30.4 per cent of the population and would remain in force until April 2023.

5. Panama had signed the Global Compact for Safe, Orderly and Regular Migration and the Global Compact on Refugees in 2018 and, despite limited resources, sought to protect the well-being of migrants. However, the challenges it faced required the support of the international community and a sharing of responsibility among all countries that formed part of the chain of origin, transit and destination. During the pandemic, the Government had built temporary shelters for migrants and asylum-seekers that had guaranteed minimum safety standards. The decision to keep some migrants in temporary humanitarian assistance centres had been deemed necessary, reasonable and proportionate.

6. The National Commission against Trafficking in Persons, which was under the authority of the Ministry of Public Security, had made significant progress in investigating and punishing human traffickers: the regulations implementing Act No. 79 of 2011, issued by Executive Decree No. 203 of 2016, had provided for renewed efforts to ensure funds for victim support and for the creation of inter-institutional victim assistance units; the Ministry had strengthened the anti-trafficking capacities of investigators and prosecutors; and the Public Prosecution Service had set up a special prosecutor's office to combat transnational organized crime.

7. The Government was keenly aware of the importance of preserving the Darién jungle, which was the ancestral territory of the country's Indigenous Peoples and persons of African descent and a sanctuary of biodiversity. At the eighth Our Ocean Conference, which Panama had hosted, it had renewed its commitment to preserve marine fauna and had expanded the country's protected areas. Along with Bhutan and Suriname, it was one of only three carbon-negative countries in the world. Its Energy Transition Agenda 2030 was designed to bring about a fundamental shift in the production and consumption of energy by increasing the use of renewable sources of energy – principally wind and solar – and introducing e-mobility.

8. The Government of Panama was committed to defending and strengthening democracy, promoting human rights and implementing international standards, in close cooperation with civil society and the general public. While there were still unresolved issues, which were an inevitable consequence of humanity's evolution, the country was achieving continuing, tangible progress.

9. **Mr. Quezada Cabrera** said that, in its replies to the list of issues ([CCPR/C/PAN/RQ/4](#)), the State party had failed to respond to the Committee's requests for information on the establishment of a specific mechanism or procedure for implementing the Committee's Views; on cases in which the domestic courts had invoked the provisions of the Covenant; on the content of training programmes for justice officials; on action taken to raise public awareness of the Covenant rights and the fact that they were directly applicable under national law; on the rights affected by the measures taken to combat COVID-19; and on whether the Government had taken the steps necessary to derogate from the application of any of the Covenant rights. He would appreciate detailed responses to those questions, along with an indication as to whether judges and other justice officials had taken part in awareness-raising and training activities on the protection of human rights.

10. He would welcome information on the issues raised in paragraph 2 of the list of issues ([CCPR/C/PAN/Q/4](#)), which the State party had likewise omitted to address. In addition to receiving those responses, he wished to know about the procedures in place for the selection, appointment and dismissal of the Ombudsman, the extent of civil society involvement in the selection process, and the measures being taken to guarantee the independence of the Ombudsman's Office and its compliance with the principles relating to the status of national institutions for the protection and promotion of human rights (Paris Principles). He invited the delegation to comment on reports that the Office's budget had been cut and to describe the steps being taken to provide it with the financial and human resources it needed to carry out its mandate effectively.

11. **Mr. Gómez Martínez** said that he would welcome a response to the questions about human rights violations committed during the dictatorship era that were contained in paragraph 3 of the list of issues, noting that the State party had yet to provide any information on that subject.

12. **Ms. Tigroudja** said that she would be interested to receive updates on efforts to identify the remains of Heliodoro Portugal and to resolve the case of Rita Wald. With regard to the latter case, she would appreciate an explanation as to why the Inter-American Commission on Human Rights had closed the friendly settlement procedure.

13. She wished to know how the State party was able to reconcile a recent ruling of the Supreme Court, according to which the prohibition of same-sex marriage in the country was not unconstitutional, and the ban on same-sex adoption established in Act No. 120 of March 2021 with the position on discrimination based on sexual orientation expressed by the Inter-American Court of Human Rights in its advisory opinion No. 24 and its judgment in the case

of *Atala Riffo and Daughters v. Chile* and with the Committee's jurisprudence, including its Views in *G. v. Australia* (CCPR/C/119/D/2172/2012).

14. According to figures from the International Labour Organization (ILO), there were over 86,000 domestic workers in Panama, of whom 90 per cent were women and almost 80 per cent worked informally in extremely degrading conditions characterized by low wages, a lack of social security and vulnerability to abuse by employers, including sexual abuse. As had been highlighted by the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, such conditions created a spiral of intersectional discrimination, the primary victims of which were women from marginalized communities, in particular Indigenous and Afro-Panamanian women, who remained overwhelmingly overrepresented in the informal economy. What legislative and other measures was the State party taking to rectify that situation?

15. Referring to paragraph 9 of the list of issues, she asked what specific measures were being taken to combat racial and other discrimination, to ensure that the National Commission against Discrimination and other anti-discrimination and complaints mechanisms were able to operate effectively, and to prevent racial profiling by the security forces. She would also like details of the provisions of domestic criminal law that addressed acts of violence, hate speech and racist and xenophobic cartoons, along with statistics on the number of convictions obtained and sentences handed down thereunder.

16. Noting that paragraph 9 also addressed the issue of the limited participation of women, especially Indigenous women, in political life, she said that it would be helpful to receive an update on efforts to amend the Electoral Code in order to promote gender parity and a description of the steps being taken to prevent political violence against women. How were the legal provisions on "electoral offences" mentioned in paragraph 36 of the replies to the list of issues applied in practice; what measures had the State party taken to give ministerial rank to the National Institute for Women; and what progress had it made in establishing a ministry of women's affairs, as envisaged in the strategic plan for the period 2019–2024?

17. **Mr. El Haiba** said that he would be grateful for information on complaints of discrimination received during the period under review, including the grounds for discrimination cited, the investigations conducted, their outcomes and the redress granted to victims. A description of the measures taken to combat and prevent acts of discrimination, stigmatization and violence against persons living with HIV would also be appreciated. Since the State party had not adopted legislation specifically prohibiting discrimination on the basis of sexual orientation, gender identity and sexual characteristics, and internal police regulations continued to classify homosexual relations as a serious offence, up-to-date information on those issues, along with a description of the action the State party was taking to comply with its commitment under the Constitution and the Covenant to prohibit all forms of discrimination, would be helpful.

18. He would welcome up-to-date information on cases of violence motivated by sexual orientation, including an indication of the number of complaints of acts of violence against transgender persons and details of the investigations conducted, their outcomes and the redress granted to victims. He wished to know whether the State party would consider revising or repealing domestic provisions requiring persons who wished to change their legal gender to undergo sex reassignment surgery and a forensic medical examination; whether it intended to prohibit conversion therapy by law and adopt mental health policies that prevented and provided protection against such practices, particularly for children and adolescents; and whether it planned to carry out campaigns to raise awareness of the dangers of conversion practices on the basis of guidelines issued by the World Health Organization and the Pan American Health Organization. It would also be interesting to receive information on the discriminatory effects of policies introduced in response to the COVID-19 pandemic, including for transgender persons, and on the measures taken to mitigate those effects.

19. He invited the delegation to provide updated information on the implementation of article 12 of the Constitution, which allowed for applications for naturalization to be refused for reasons of physical or mental disability; on any plans to review that article; and on the steps being taken to combat discrimination against persons with disabilities, in line with the

State party's international and domestic commitments, including those requiring persons with disabilities to account for at least 2 per cent of any given company's workforce. Lastly, he would be pleased to receive information on the procedures to be followed by persons with disabilities wishing to benefit from the various initiatives provided for under Act No. 42 of 27 August 1999; on the number of beneficiaries to date, disaggregated by age, sex, regional affiliation and ethnicity, among other variables; and on the impact of those initiatives on the living conditions of beneficiaries.

20. **The Chair** said that she would be grateful for information on the mechanisms in place to monitor and evaluate the implementation of laws and policies to promote gender equality and non-discrimination; a response to reports that pregnancy tests were still a requirement of women's access to employment in both the public and private sectors; a description of the regulatory framework for the protection of women who were pregnant or on maternity leave; details of the steps taken to reduce the unemployment rate among women and the gender pay gap; official data on women's unemployment and the percentage of women in managerial and decision-making positions in the public and private sectors; and a description of the measures taken by the State party to remedy women's underrepresentation in such positions.

*The meeting was suspended at 4 p.m. and resumed at 4.15 p.m.*

21. **A representative of Panama** said that the Supreme Court had invoked the Covenant and/or the Committee's jurisprudence in several of its rulings, including in habeas corpus proceedings on 6 February 2018, in a petition for annulment of an executive decree on 28 April 2016, and in proceedings for the protection of constitutional safeguards on 22 February 2022. In the period 2016–2022, the Higher Institute of the Judiciary had organized 101 awareness-raising and training activities covering the Covenant rights for judges, prosecutors, other justice officials and members of civil society, of whom 2,785 had been women and 1,646 had been men. Topics addressed had included international human rights law in 2016, access to justice, inclusion and gender equality in 2017, sexual and reproductive rights in 2018, enhancing access to justice for children and adolescents in 2019, and the granting of constitutional status to the right to a family in 2020.

22. **A representative of Panama** said that the data on acts of violence held by the Public Prosecution Service were not disaggregated according to the sexual orientation and gender identity of the victims. Individuals could report violations of their rights to the Service, which immediately took steps under the Code of Criminal Procedure to prosecute offences and safeguard the personal integrity of victims. While it was true that there were no measures designed specifically to protect lesbian, gay, bisexual and transgender persons, the Service had established the interdisciplinary Unit for the Protection of Victims, Witnesses, Experts and Other Participants in Criminal Proceedings and applied the Brasilia Regulations Regarding Access to Justice for Vulnerable People.

23. **A representative of Panama** said that, of 110 reported cases involving victims of the military regime, 77 had been brought to trial. Of those 77, 4 remained pending, 2 because the defendants' poor health had prevented the hearings from proceeding and 2 because the defendants had been found to be in contempt of court. In 16 reopened cases involving victims of the invasion, one victim had been identified through DNA profiling and efforts were ongoing to identify others, in cooperation with genetic laboratories in Colombia and Guatemala.

24. **A representative of Panama** said that, in compliance with the judgment of the Inter-American Court of Human Rights of 12 August 2008 in the case of *Heliodoro Portugal v. Panama*, Mr. Portugal's skeletal remains had been duly identified. At 10.30 a.m. on 3 March 2023, pursuant to a ruling of the High Criminal Court of 20 July 2022, the remains had been handed over to Mr. Portugal's next of kin. The State had covered the victim's funeral expenses and, following an investigation conducted by the Public Prosecution Service, had declared the innocence of several defendants in the case, in accordance with due process of law. The Inter-American Commission on Human Rights had closed the friendly settlement procedure in the case of Rita Wald and the proceedings were currently pending a decision on the merits. Panama remained firmly committed to the inter-American system for the protection of human rights.

25. **A representative of Panama** said that, pursuant to the Constitution, Act No. 7 of 1997, creating the Ombudsman's Office, and Resolution No. 77 of 2019, the National Assembly had the power to dismiss the Ombudsman by majority vote of no less than two thirds of its members. Following an investigation into a complaint filed by a civil society organization alleging sexual and labour harassment of an employee of the Office, the former Ombudsman had been removed from office for gross negligence. Procedures similar to the action pursued in Panama were provided for in the domestic legislation of countries including Costa Rica, El Salvador and the Plurinational State of Bolivia. The Ombudsman was appointed through a process of open nominations, with input from civil society.

26. **A representative of Panama** said that discriminatory conduct, including sexual harassment, was prohibited and punished under Act No. 7 of 2018. Article 9 of that Act provided for the dismissal of employees found to have engaged in any of the forms of discriminatory conduct specified therein.

27. **A representative of Panama** said that acts of political violence that caused harm or suffering based on gender and might impair or nullify the recognition, use and full enjoyment of women's political rights were prohibited and punished under Act No. 184 of 25 November 2020. Offences under the Act carried sentences ranging from one to four years, but, as the legislation had been enacted only recently, no data on its implementation were available as yet. A model protocol for preventing and punishing political violence against women in political parties had been adopted in April 2022 and so far had been incorporated into the statutes of three out of nine political parties. A further three parties were in the process of adopting the new rules while three had yet to take action.

28. **A representative of Panama** said that Act No. 375 of 8 March 2023 had elevated the status of the National Institute for Women to that of a ministry. The new ministry would be responsible for formulating and implementing comprehensive public policies protecting women's rights and promoting their involvement in all aspects of the country's development. The Government had also signed the ILO Violence and Harassment Convention, 2019 (No. 190), and, in 2020, had launched a plan to eliminate the gender wage gap that would run until 2025 in parallel with the regional agenda for combating poverty and inequality.

29. **Mr. Tejada** (Panama) said that it was important to note that many top State institutions had achieved gender parity and, in some of them, women held the majority of decision-making positions.

30. **A representative of Panama** said that the country had carried out its first randomized survey of domestic workers in 2020. Based on the survey results, which were available for consultation on the website of the Ministry of Labour and Workforce Development, an awareness-raising campaign had been launched to inform domestic workers of their labour rights and the existence of three trade unions. The years since the campaign had seen an increase in the number of domestic employment contracts registered, with 971 logged in 2021 and 523 in 2022.

31. **A representative of Panama** said that, within the framework of the Plan for the Comprehensive Development of the Indigenous Peoples of Panama, a plan for the economic empowerment of Indigenous women had been developed in six phases that had involved consultations with Indigenous focus groups and in-depth interviews with female leaders representing all seven Indigenous Peoples in the country and national Indigenous women's organizations. Sixty-nine government and international institutions had also contributed, and around 300 initiatives had been formulated as a result.

32. **A representative of Panama** said that the Government would be considering the appropriate course of action to take with respect to conversion therapy, which was currently neither regulated nor approved in Panama. Article 72 of the Constitution protected the rights of pregnant workers and support for new parents had been further bolstered in 2021 by an increase in the paternity allowance.

33. **A representative of Panama** said that, in order to prevent and combat racial discrimination by the police, the security forces carried out compulsory human rights training on an ongoing basis. The Ministry of Public Security had established mechanisms for receiving and processing complaints of such discrimination, and, since the start of 2022, had

received a total of 337, of which 172 were still under investigation. In 117 cases, the alleged perpetrators had been acquitted due to lack of evidence and 4 cases were currently before the disciplinary panel. There were no data indicating that any persons had been refused naturalization under article 12 of the Constitution. The Naturalization Department considered all naturalization applications without discrimination on the grounds of disability.

34. **A representative of Panama** said that, during the COVID-19 pandemic, prevention and care guidelines had been drawn up in accessible language for persons with disabilities, their families and caregivers. The Ministry of Health had ensured their dissemination through various media and using various formats, including sign language, subtitling and text messaging. Care facilities referred to as “hospital hotels” had been used to provide care for and monitor the health of persons with disabilities or chronic illnesses.

35. **Mr. Gómez Martínez** said that he would like to know the source of the statistics on enforced disappearances under the military regime, particularly the reference to 110 reported cases. He would also like to know whether the number of victims of the 1989 invasion had been quantified and whether there was any prospect of further victims being identified and reparations being paid to their relatives.

36. **Ms. Tigroudja** said that she would like to know why the Inter-American Commission on Human Rights had resumed consideration of the case of Rita Wald, having closed the friendly settlement procedure, and what steps had been taken to locate Ms. Wald and keep her family informed. She was heartened to learn of the establishment of the Ministry for Women but would like to know the current status of the amendments to the Electoral Code planned to promote gender parity. She would also appreciate information on any measures taken to counter the precarious working conditions endured by women domestic workers and answers to her questions about the Supreme Court of Justice ruling on same-sex marriage and Act No. 120 of 3 March 2021. Why did the existing legal framework governing discrimination not protect against discrimination on the basis of sexual orientation?

37. **Mr. El Haiba** asked what the prospects of a total ban on conversion therapy were, noting that such practices had no scientific and medical backing. Information on the remedies available to persons with disabilities whose naturalization applications had been refused would be appreciated, as would an indication of the extent to which the State party enforced regulations designed to increase the workforce inclusion of persons with disabilities.

38. **Mr. Quezada Cabrera** asked whether, as had been reported to the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions, a bill amending the legal provisions governing the dismissal of the Ombudsman was under consideration, and, if so, what the current legal status of that bill was.

39. **The Chair** said that she would appreciate the delegation’s comments on the requirement for women to undergo a pregnancy test in order to access public and private sector employment; on reports of pregnant women being dismissed and a lack of social security coverage and maternity leave; on the regulatory framework protecting pregnant women; and on the low numbers of women in decision-making positions.

40. **A representative of Panama** said that the 110 victims of enforced disappearance mentioned were those documented by the Truth Commission set up in 2001. Their cases were among the 77 that had already been brought to trial. It had not been possible to conclude some cases because the victims’ remains had disappeared. Other remains were awaiting DNA testing. The cases of 16 victims of the 1989 invasion had been reopened at the request of relatives and 40 bags of remains had been located. Owing to the age of those remains, identification was dependent on collaboration with forensic medicine institutes in other countries.

41. **A representative of Panama** said that the Inter-American Commission on Human Rights had closed the friendly settlement procedure opened in the case of Rita Wald in 2018, pursuant to the provisions of article 40 (4) of the Commission’s Rules of Procedure, because no agreement had been reached.

42. **A representative of Panama** said that the Supreme Court of Justice had ruled on 16 February 2023 that the expression “between a man and a woman” contained in article 26 of the Family Code, the expression “persons of the same sex” contained in article 34 (1) of the

Family Code, and article 35 of Act No. 61 of 7 October 2015, which prohibited “[m]arriage between individuals of the same sex”, were not unconstitutional. The ruling had received one dissenting opinion and one reasoned opinion, had been unsealed and would become enforceable on 14 March 2023.

43. **A representative of Panama** said that amendments to the Electoral Code adopted by Act No. 247 of 22 October 2021 stipulated that the gender parity rules applicable in State elections must also be respected in political parties’ internal elections and candidate selection processes. In cases where women accounted for fewer than 50 per cent of candidates, the lists required official approval.

44. **A representative of Panama** said that the Conciliation and Decision Board had processed 332 complaints related to domestic employment involving amounts of up to 1,500 balboas. The Ministry of Labour and Workforce Development had established an online platform and a telephone service for complaints relating to domestic workers’ rights. In the period 2018–2020, the General Directorate for Labour Inspection had carried out 4,259 inspections, more than half of which had resulted in penalties being imposed.

45. With regard to social security coverage for pregnant women, under Act No. 201 of 25 February 2021, the social security fund had been ordered to pay all maternity benefits due to women whose employment contracts had been suspended. Executive Decree No. 53 of 2002 had established that requesting women to undergo a pregnancy test at job interviews was discriminatory, and corresponding sanctions had been drawn up based on Act No. 7 of 14 February 2018. Act No. 56 of 2017 stipulated that women must occupy at least 30 per cent of decision-making positions in State companies. At the time of the most recent measurement in 2018, women had held 22.5 per cent of such positions, up from 16.3 per cent in 2016.

46. **Mr. Tejada** (Panama) said that questions that it had not been possible to answer due to time constraints would be covered in a written response.

*The meeting rose at 5.05 p.m.*