



# International Covenant on Civil and Political Rights

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## Human Rights Committee 137th session

### Summary record of the 3974th meeting\*

Held at the Palais Wilson, Geneva, on Friday, 10 March 2023, at 3 p.m.

*Chair:* Ms. Abdo Rocholl

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

*Sixth periodic report of Panama (continued)*

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\* No summary record was issued for the 3973rd meeting.

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*The meeting was called to order at 3.05 p.m.*

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

*Fourth periodic report of Panama (continued)* (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. Gómez Martínez** said that he wished to know whether the Protocol for the Comprehensive Support of Women Victims of Intimate Partner Violence addressed the question of cooperation with judges and prosecutors and whether bill No. 910, amending Act No. 184 of 2020, provided for the establishment of a court specializing in cases of political violence. He would appreciate information on the activities undertaken to give effect to Act No. 82 of 2013, in particular articles 6, 14 and 27 of the Act, which regulated the provision of assistance to women victims of violence and their minor children, and on the results achieved through those activities. It would be useful to learn whether judges, prosecutors and law enforcement officials had undergone special training to help them to incorporate a gender perspective into their work and overcome gender biases. Information on the progress made towards establishing prosecutor's offices and courts specializing in cases of violence against women would also be welcome.
3. He would appreciate clarification as to why the use of electronic tracking devices, such as ankle tags, to monitor perpetrators of violence against women, which was provided for in Act No. 82, had been delayed; whether police support officers were assigned to women victims of harassment and violence; whether the law prohibited abusive fathers from applying for custody of their children in the event of separation or divorce from their partner; and whether the State party had considered prohibiting or limiting the use of plea bargaining agreements in cases of violence against women. In that connection, he would appreciate an update on the status and content of bill No. 860 of August 2022, which would reportedly restrict the use of such agreements. He would welcome information on the number of women's shelters in the country, the number of women currently using them and the specific services they provided, including information on the results achieved through those services.
4. In the light of reports that women, children and gay, bisexual and transgender men who attempted to cross the Darién Gap from Colombia were frequently subjected to sexual violence but were hesitant to report their attackers because of a desire to continue their journey northwards as soon as possible, he wished to know whether the State party had considered establishing procedures that allowed the victims in such cases to undergo medical examinations, including HIV screening, and give their statements quickly, in such a way that the resulting evidence could be preserved and used in court at a later date. A full account of the special preventive measures taken to prevent acts of sexual violence against migrants crossing the Darién Gap would be helpful. More generally, in view of the fact that the incidence of sexual violence against women and femicide remained high in Panama, he wondered whether the State party had considered conducting an analysis of the effectiveness of Act No. 82 with a view to improving the inter-institutional system for the protection of women victims of violence in all areas.
5. The Committee had received reports that, despite the 2009 reform of the selection criteria, requirements and procedures for entry to the judiciary and the Public Prosecution Service, the judicial system remained inefficient and susceptible to corruption and undue influence. He would therefore be grateful for information on the frequency with which selection processes for entry to the judiciary and the Public Prosecution Service were held and clarification as to whether those processes were open to all qualified candidates. An explanation of the procedures that governed the appointment and promotion of judges, including to the Supreme Court, would also be welcome, as would information on the legal provisions governing security of tenure. He would also welcome precise data on the number of corruption-related cases brought against judges, and on the outcomes of such cases.
6. Lastly, he wished to reiterate the questions raised in paragraph 20 of the list of issues (CCPR/C/PAN/Q/4) in relation to bill No. 239 of 30 January 2020, amending and

supplementing Act No. 53 of 27 August 2015, and the budget allocated to the justice system, which had not been addressed in the State party's written replies to the list of issues (CCPR/C/PAN/RQ/4).

7. **Ms. Tigroudja** said that all judicial rulings that were contrary to the provisions of the Covenant engaged the international responsibility of the State party even if the ruling had been handed down by the State party's highest court. Since the judgment of the Supreme Court of Panama regarding the prohibition of same-sex marriage was contrary to the provisions of articles 10 and 23 of the Covenant, read in conjunction with articles 3 and 26, she would be grateful for the delegation's comments on the clear incompatibility of the aforementioned ruling with the State party's obligations under the Covenant.

8. She wished to know what measures the State party planned to take to put an end to the forced sterilization of Indigenous women and women with disabilities, in particular in Bocas del Toro Province, to punish those responsible, and to ensure that men and women had untrammelled access, on an equal basis, to voluntary sterilization based on informed consent. Referring to the case of an 8-year-old girl who had become pregnant as a result of rape yet had been forced to carry her child to term, she invited the delegation to clarify the State party's stance on the decriminalization of abortion. Was it willing to take measures to ensure safe and legal access to abortion services for all, including by blocking the adoption of regressive laws, such as the alleged bill on the establishment of a register of so-called "conceived unborn children" (*niños concebidos no nacidos*)? Additionally, in the light of reports of the country's high child and teenage pregnancy rates, she wondered what steps the State party planned to take to ensure that young girls had access to comprehensive sexual education.

9. In view of the absence of written replies to the questions raised in paragraphs 16 and 17 of the list of issues, she would be grateful for statistical data on the use and average duration of pretrial detention over the reporting period, the use of alternative measures to detention, the steps taken to ensure that remand prisoners were separated from convicted prisoners, and the measures taken in follow-up to Opinion No. 47/2019 of the Working Group on Arbitrary Detention concerning Ricardo Martinelli (A/HRC/WGAD/2019/47). She would be particularly interested to learn what guarantees of non-repetition had been put in place. She also wished to know what measures the State party planned to take to ensure that conditions in places of detention did not violate prisoners' right to be treated with dignity and humanity, in accordance with articles 6, 7 and 10 of the Covenant; to address prison overcrowding; and to combat the violence, including sexual violence by both persons deprived of their liberty and prison officers, that was currently endemic in places of detention in Panama.

10. **Mr. Quezada Cabrera** said that he would welcome replies to the questions raised in paragraph 14 of the list of issues, which addressed the inclusion in criminal legislation of a definition of torture, the number and outcome of judicial and disciplinary proceedings instituted for acts of torture and ill-treatment, the redress granted to victims, and the complaints mechanisms available in the State party, including through the Ombudsman's Office. An explanation of the role, powers and budget of the national preventive mechanism would also be welcome.

11. **The Chair** said that the Committee had been made aware of numerous reports of police brutality and excessive use of force by law enforcement officials. Accordingly, she would be grateful for a detailed explanation of the regulations that governed the use of force and firearms by law enforcement and security officials during arrests and in the context of demonstrations and other circumstances that might require the use of force according to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Committee's general comment No. 37 (2020) on the right of peaceful assembly. She would also welcome information on the investigations carried out in response to reports of excessive use of force by law enforcement officials, on the sentences imposed on persons found responsible, on the reparation provided to victims, on the number of criminal complaints of inappropriate use of force, in particular against persons of African descent, and on investigations carried out in response to such complaints in each year of the reporting period.

12. Moreover, she would appreciate the delegation's comments on reports that there was a surplus of high-ranking officers in the National Police, that the police force was becoming increasingly militarized, and that its officers had been performing private security tasks, for which they received an additional income, alongside their usual duties. In connection with the recommendations regarding the police made by the United Nations Office on Drugs and Crime in 2014, she wished to know whether there was a law governing promotions within law enforcement agencies, what the base salary, by rank, was for police officers, and whether officers received training on the use of force.

13. **Mr. El Haiba** said that he would appreciate information on the steps taken to eliminate the movement requirement from the definition of trafficking contained in the Criminal Code, to include forced labour as a purpose of trafficking and to make fraud and coercion components of the offence rather than mere aggravating circumstances. It would be useful to receive data on the scale of the trafficking problem in the State party, on the number of complaints of trafficking and any investigations, prosecutions and convictions, and on the victims, disaggregated by region, sex and social status. In addition, he wished to know whether the State party intended to decentralize the National Commission against Trafficking in Persons; what impact the awareness-raising campaigns, the National Plan of Action against Trafficking in Persons 2017–2022 and any other measures had had; and whether trafficking in persons had been included in police, military and judicial training. Lastly, what protection, rehabilitation, reintegration and reparation measures, as well as shelters, were in place for victims of trafficking?

*The meeting was suspended at 3.45 p.m. and resumed at 4 p.m.*

14. **A representative of Panama** said that a well with a capacity of 240 gallons of water per minute had been brought online in 2021 to service La Joya and La Joyita prisons and, to some extent, La Nueva Joya prison. The well had been supplemented by the construction, in 2022, of a reservoir with a capacity of 1.5 million gallon, and one of the reservoir's two compartments was reserved for La Joya prison. Together, those facilities provided water to prisons holding more than 60 per cent of the total prison population. Projects were also under way to enhance the water supply at prisons in the interior of the country. The State had complied with the measures ordered by the Inter-American Commission on Human Rights regarding the facility at Punta Coco by transferring most of the individuals held there to other sites. Juvenile offenders were segregated from adults, and women from men; however, pretrial detainees were segregated from convicted offenders at only four of the country's prisons.

15. **Mr. Tejada** (Panama) said that two new prisons, including one in the interior of the country with a capacity of 12,500, would be constructed by the end of 2023 to help to reduce overcrowding. The Government had decided to build a new maximum-security prison to which Punta Coco detainees who were deemed extremely dangerous would be transferred.

16. **A representative of Panama** said that the relevant national laws were in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Within that legal framework, superior officers were required to guide the conduct of their subordinates. Appropriate steps were taken in all cases of excessive use of force, for which there was no special protection or immunity, although no convictions had been handed down thus far. The officers involved in the repression of demonstrations in Colón and San Félix had been temporarily suspended pending an investigation by the Public Prosecution Service. The police force no longer had a disproportionately large number of high-ranking officers nor was it becoming militarized. Promotions were governed by Decree No. 899 of 2020. The National Plan of Action against Trafficking in Persons 2017–2022 had enhanced the inter-institutional coordination of prevention and awareness-raising efforts, thus enabling the investigation and prosecution of cases and the punishment of perpetrators. Given the transboundary nature of trafficking, the authorities engaged in mutual judicial assistance.

17. **A representative of Panama**, referring to the case of *Velez Loor v. Panama*, said that the Inter-American Court of Human Rights had recognized the efforts being made in Darién Province to provide comprehensive humanitarian assistance to international migrants through ongoing management of irregular migration flows. Shelter, water, food, clothing, basic necessities, baby formula and medical care continued to be provided free of charge to all

migrants without distinction. The judges in the case had been able to observe that the temporary reception centres were not places of deprivation of liberty and that they were run by civilian staff who received training in the humane management of migration.

18. **A representative of Panama**, addressing the right to health of prisoners, said that food guides had been developed and rules on physical and mental health services in prisons, including for individuals living with tuberculosis or HIV/AIDS, had been adopted. A cooperation agreement between the Ministries of the Interior, Security and Health was expected to be signed imminently. The cure rate for tuberculosis had been 90 per cent in 2021.

19. **A representative of Panama** said that an intersectoral commission on violence against women had been established to, inter alia, improve the detection and handling of cases, including those involving the migrant population, through the provision of training to staff of the relevant agencies and the Public Prosecution Service. More than 130 women had received the training thus far. Of the nearly 12,100 mental health assessments that had been carried out, over 1,800 related to violence, 83 per cent of the persons concerned were women and 10 per cent were men. The National Assembly was considering a proposal to remove the provisions of the legislation on sterilization that discriminated against women. The teenage pregnancy rate had fallen from 37.9 per cent in 2018 to 26.9 per cent in 2021.

20. **A representative of Panama** said that fewer persons were being deprived of their liberty without trial in places where the adversarial system was applied. Pretrial detention accounted for 25.7 per cent of the measures imposed by due process judges between 2011 and 2020, 24.8 per cent in 2021 and 22.8 per cent in 2022. The alternatives to pretrial detention included regular reporting, a ban on leaving the country, immediate removal from the home, asset seizure, house arrest and electronic monitoring. Under the Criminal Code, pretrial detention could not exceed one year, except in complex cases, when it could last up to three years.

21. Judicial appointments were made through competitions, and judges enjoyed security of tenure and independence. A call for candidates to fill over 300 judge and magistrate posts had been made in 2022. The Ombudsman's Office had a unit that investigated cases of judicial misconduct, and the members of the Integrity and Transparency Court had been appointed on 1 March 2023 following a competition. There were no judges specialized in cases of violence against women. The law did not provide for men who abused their partners to have visits with their children; such decisions were made by a judge on a case-by-case basis.

22. **A representative of Panama** said that more than 4,000 teachers and all of the country's nearly 700 psychosocial workers had received training in how to use the recently introduced set of guides to education in sexuality and affectivity, which had also been distributed to students, representatives of civil society and around 70,000 families. In addition, the President had endorsed Act No. 302 on the sex education curriculum, as well as Act No. 289 on peaceful coexistence in school settings. Over a third of the more than 1,100 teenage pregnancies recorded in the educational system in 2022 had been among Indigenous girls; accordingly, the Ministries of Health, Social Development, and Education were coordinating their efforts to reduce the prevalence in that group.

23. **A representative of Panama** said that, although the definition of torture in the Criminal Code did not refer to State actors, third parties or the acquiescence thereof, such situations could still be prosecuted because the courts had to decide the context in which a defendant had acted. Moreover, pursuant to a Supreme Court judgment of 2014, the definition contained in the Convention against Torture had become part of the body of law of constitutional rank.

24. **A representative of Panama** said that an inter-institutional approach was being taken to enforcement of Act No. 82 on the prevention of femicide and violence against women. From 2019 to 2022, the number of court cases concerning violence against women had ranged from 21 to 31 per year. There had been 53 convictions under the mixed inquisitorial procedure and 54 under the adversarial system. Cases of domestic violence were investigated by the Office of the Special Prosecutor for Family Affairs, the homicide unit had a sub-unit

specialized in femicide, and there was also a victim protection unit. The Office of the Special Prosecutor had ordered protection measures around 68,000 times.

25. **A representative of Panama** said that a high-level commission was currently examining the possibility of using electronic tagging to help combat domestic and gender-based violence. Inter-institutional consultations involving the National Committee on Violence against Women were working towards an implementation protocol. During the coronavirus disease (COVID-19) pandemic, 25 social, psychological and legal specialists had provided support via the 182 hotline to more than 7,000 women, including nearly 3,000 victims of domestic violence. In addition, the messages of the “You are not alone” (No estás sola) campaign had reached around 1.5 million people.

26. **A representative of Panama** said that the budget of the Ombudsman’s Office had actually increased each year since 2020, rising from 4.7 million to 7.5 million balboas. In the first two months of 2023, the Office had provided guidance and support in 374 cases and had received 102 complaints and one mediation request. In addition, in landmark rulings the Office had denounced public officials who had failed to cooperate on human rights and other issues and had lodged 12 complaints with the Supreme Court. The Office also consulted regularly with Indigenous groups, trade unions and cooperatives and participated in around a dozen committees and observatories that had a role in data systematization and policy formulation.

27. **Mr. Tejada** (Panama) said that the round of high-level talks referred to as the “Diálogo por Panamá” that had taken place in 2022 had resulted in more than 100 major agreements intended to foster social harmony, including guarantees in the areas of human rights, freedom of expression and freedom of association.

28. **Mr. Gómez Martínez** said that he would like to know whether the open competitions to recruit judges in 2019 and 2022 had been published in the Official Gazette. It would be interesting to know how many judges had actually been recruited on those occasions and how the examining board deciding on new appointments was composed.

29. Given that around 68,000 protection orders had been issued in an effort to combat violence against women, he would be grateful for details of how compliance with such measures was monitored. Did police support officers have a role? He also wished to know whether there was a timeline for the implementation of the electronic tagging plan.

30. **Ms. Tigroudja** said that she would appreciate replies to her questions concerning the forced sterilization of Indigenous women and women with disabilities and safe and legal access to abortion, as well as further information on the measures to eliminate gender discrimination in access to sterilization that were under consideration. The legal situation of migrants in Panama who were de facto, but not de jure, deprived of liberty, was concerning, because they were denied access to rights to which persons formally deprived of liberty were entitled, including access to a lawyer. She therefore invited the delegation to clarify the State party’s position on that point.

31. **Mr. Carazo** said that he would like statistics on the number of cases dealt with by the Ombudsman’s Office in 2022 in addition to those already provided for early 2023. It seemed that the structural weaknesses and limited availability reported were down not so much to budget issues but to a lack of cooperation, in recent years, between the Office, the Government and civil society organizations. Work was needed to remedy that situation.

32. **Mr. El Haiba** said that he would be grateful for answers to his questions relating to trafficking in persons, particularly those pertaining to an amendment to article 456 of the Criminal Code and the centralized nature of the National Commission against Trafficking in Persons.

33. **Mr. Quezada Cabrera** said that he would like to know whether any bill was being drawn up to amend the definition of torture contained in the Criminal Code in order to bring it into line with the State party’s international human rights obligations, including the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as required under article 2 (2) of the Covenant.

34. **A representative of Panama** said that, following a pilot project carried out in 2022 and validation by the National Committee on Violence against Women, the roll-out of the electronic tagging programme was scheduled to begin in May 2023.

35. **A representative of Panama** said that 305 judge and magistrate positions had been open and due to be filled through the 2022–2023 competitive recruitment process for judges. So far, around 100 appointments had been made to various courts and jurisdictions. The delegation would share the competition notice that had been posted on the judiciary’s website with the members of the Committee. The competition was a five-stage process that included psychological and psychometric tests, a competitive examination and an interview with representatives of the nominating authority and representatives of civil society. When filling positions, the authorities gave priority to those candidates who obtained the highest overall scores.

36. **A representative of Panama** said that Act No. 82 of 2013 had created a police division specialized in domestic violence, whose officers included police support officers who visited victims to verify that protection orders were being respected. When deemed necessary, those officer drew up reports that could result in a tightening of the measures imposed on assailants.

37. **A representative of Panama** said that the Government categorically opposed forced sterilization, which was expressly prohibited in comprehensive health regulations adopted in 2019. After investigating the allegations of forced sterilization within the indigenous community of Bocas del Toro Province, the Ombudsman’s Office had concluded that the patients concerned had signed the requisite consent form. The Criminal Code permitted abortion only in cases of rape, in pregnancies of less than eight weeks and in the event of therapeutic necessity. The case of the pregnant 8-year-old child referred to earlier would have involved premature birth, not abortion, because her pregnancy had only come to light at 23 weeks. The child had been hospitalized and provided with a birth plan and comprehensive care and support to ensure that she reached term at the appropriate time.

38. **A representative of Panama** said that he wished to reiterate that temporary migrant reception centres were not detention centres, as the 13 international and civil society organizations, including members of the United Nations system, active in Darién Province at that time could verify.

39. **A representative of Panama** said that the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) were very important to Panama. The Ombudsman’s Office was working on amendments to update the standards set forth in Act No. 7 of 1997 and extend its scope. The 85 articles, which had been drawn up in consultation with the United Nations High Commissioner for Human Rights, legal experts and a consultant from the International Organization for Migration, would soon be presented to the National Assembly. The Office had provided guidance and support in 2,274 cases in 2019, 2,956 in 2020 and 6,744 in 2021. It had received 1,259 complaints in 2019, 1,707 in 2020, 1,871 in 2021 and 1,685 in 2022; 159 petitions in 2019, 353 in 2020 and 336 in 2021; 10 mediation requests in 2019, 15 in 2020 and 30 in 2021; and 16 requests for representation in 2019, 9 in 2020 and an extraordinary 519 in 2021. Those statistics could be consulted on the Office’s website. Statistics for 2022 that had not yet been provided would be shared in writing.

40. **Mr. Tejada** (Panama) said that members of the National Commission against Trafficking in Persons included the Minister of Public Security and officials from other ministries and institutions. The Commission met every two months. The outcomes of its work would be conveyed to the Committee. A number of ministries and institutions, including the Public Prosecution Service and migration, border control, refugee and investigative teams, were active and had offices in the border area of Darién Province where migratory flows were concentrated. As a result, the country was now better placed to respond to any situations that might arise in that region.

41. The delegation would provide responses to any unanswered questions in writing.

*The meeting rose at 5 p.m.*