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Committee on Economic, Social and Cultural Rights Seventy-third session

Summary record of the 2nd meeting

Held at the Palais des Nations, Geneva, on Monday, 13 February 2023, at 4 p.m.

Chair: Mr. Abdel-Moneim

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The meeting was called to order at 4.10 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Third periodic report of Panama (E/C.12/PAN/3; E/C.12/PAN/Q/3; E/C.12/PAN/RQ/3)

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

2. **Ms. Gorday de Villalobos** (Panama), introducing her country's third periodic report (E/C.12/PAN/3), said that Panama was a multicultural, multi-ethnic and multilingual State that rejected any act or doctrine based on ethnic, political or cultural superiority and any act that hindered the enjoyment of civil, political, economic, social and cultural rights. By strengthening institutions and accountability, her Government was preventing human rights violations and devising robust public policies for the benefit of all without discrimination. To that end it had created a number of autonomous, decentralized agencies, including, most recently, the Ministry for Women.

3. In 2020 Panama had submitted its second voluntary review on progress towards attaining the Sustainable Development Goals, which were an integral part of its National Strategic Plan. In that context, a nationwide exercise in consultation and participation had been conducted and 175,000 proposals had been submitted by ordinary citizens. On the labour front, the number of women in formal work was now nearly 50,000, having increased by 7 per cent between 2020 and 2022. There were 473 trade unions covering nearly 280,000 private sector workers, around 45,000 of them women. In 2019 Panama had been pronounced free of child labour in the sugar industry. As to social protection, the country's various cash transfer schemes had assisted 192,000 people living in poverty, which had helped bring the poverty rate down by 13 per cent. Efforts to combat poverty and inequality had been institutionalized in Act No. 297 of 27 April 2022, establishing the Beehive Plan (Plan Colmena). A State policy for long-term comprehensive social, economic and sustainable development, the Plan had now benefited more than 450,000 children in 300 municipalities with high rates of multidimensional poverty.

4. Her Government had made great efforts to cope with the coronavirus (COVID-19) pandemic, boosting the number of intensive care beds by 147 per cent, and making more than 1,000 new beds available overall. Panama had been recognized as having one of the best and most effective mass vaccination systems in the world, winning the United Nations Public Service Award 2022 in the category "Institutional resilience and innovative responses to the COVID-19 pandemic". Health care was free for persons with disabilities, Indigenous persons, children and mothers, and there were special health programmes for adolescents and older people and programmes on nutrition and HIV/AIDS.

5. School enrolment rates had risen between 2015 and 2021, reaching nearly 100 per cent in primary education, around 80 per cent in lower secondary education and nearly 60 per cent in upper secondary education. The Human Resources Training and Development Centre had created a social and educational support scheme from which, by 2021, more than 900,000 students had benefited, representing an investment of around \$276 million. Some 65 per cent of schools and 80 per cent of students and teachers had Internet connectivity.

6. The Centre for Historical, Anthropological and Cultural Research had opened in 2021. Its mission was to study Panamanian history and culture with a view to promoting cultural rights, cultural dialogue and sustainable development, and protecting the country's heritage. As part of efforts to preserve the Panamanian cultural identity as a reflection of the right of peoples to self-determination, 350 archaeological artefacts that had been taken out of the country had been recovered. In 2022, Panama had finalized its policy on creative economy for sustainable development, with support from the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the European Union. The policy was based on the UNESCO Thematic Indicators for Culture in the 2030 Agenda.

7. A system for comprehensive protection of children's rights had been created under Act No. 285 of 2022. In addition, 104 childcare centres now catered for more than 2,000 children aged 0–4. According to the Electoral Court, which was responsible for issuing national identity cards, 90 per cent of children aged under 18 (96 per cent in the case of those who were over 12) now had a youth identity card.

8. **Ms. Lemus de Vásquez** (Country Rapporteur) said that she would like to know to what extent the Covenant was directly applicable in the State party's legal order and whether court rulings ever referred to the Covenant. She wondered whether the delegation could provide examples of relevant court cases, over and above the constitutional reviews and applications for amparo referred to in the State party's replies to the list of issues ([E/C.12/PAN/RQ/3](#), paras. 21–24). She would also like to learn whether Panama planned to become a party to the Optional Protocol to the Covenant. With regard to data collection and disaggregation and to human rights indicators, she would like to know how the State party was strengthening its statistics system, including by increasing financial, human and technical resource allocations, and what progress was being made in the standardization of data across the National Statistics Council, the technical advisory committees and the statistics offices operating in the ministries and decentralized entities.

9. Noting that most of the actions mentioned in the National Plan for Social Responsibility in the Public and Private Sectors and Human Rights, 2020–2030 were voluntary in nature and that victims of human rights violations by companies had no recourse to an effective complaints mechanism, she said that she would appreciate information on the regulatory framework in place to ensure that companies respected economic, social and cultural rights in all their activities, including by performing human rights due diligence. Given that the Global Alliance of National Human Rights Institutions had downgraded the Ombudsman's Office to B status, she would like to know what steps were being taken to guarantee the independence of that Office and enable it to effectively discharge its mandate; to bring it into line with the Paris Principles; and in particular to establish an objective and transparent procedure for the appointment and removal of the Ombudsman. With regard to free, prior and informed consent by Indigenous Peoples to projects impacting their lands, she would welcome information on the steps taken to ensure effective participation by communities in the Ngöbe-Buglé Indigenous region (*comarca*), particularly those in the north of the Santa Fe district, in the Chiriquí Grande-Panamá III power line project. It would be useful to know what stage the consultations had reached.

10. The National Climate Change Strategy to 2050 gave little information on the impact of climate change adaptation and mitigation measures on economic, social and cultural rights. The Committee would welcome further details in that regard. Although Panama was, in global terms, a net greenhouse gas sink, the emissions of the energy and agriculture and forestry sectors were currently likely to prevent the country from fulfilling its climate commitments, including its nationally determined contribution to the global response to climate change under the Paris Agreement. She would like to know what steps the State party was taking in that regard. Given that the country's climate change vulnerability rating for 2030 had been put at "severe", she would welcome information on the steps taken to boost the resilience of populations living in the Indigenous regions, notably by improving social and economic conditions in order to reduce their vulnerability.

11. The Committee would appreciate receiving answers to its questions in the list of issues regarding fiscal policy, in particular concerning the share of government revenue accounted for by tax revenue; taxation on corporate profits and personal income; public expenditure as a percentage of gross domestic product; and the proportion of the public budget earmarked for social spending ([E/C.12/PAN/Q/3](#), para. 6). Despite the creation of a regulatory framework in the early 2000s to increase fiscal transparency, the use of offshore holdings still permitted tax evasion and optimization. She would like to receive further information about the multidisciplinary team specializing in tax offences ([E/C.12/PAN/RQ/3](#), para. 27). In particular, what was its mission, did it have a work plan and what results had it achieved since its formation in 2021?

12. The Committee had been informed that transgender persons faced discrimination in the areas of health, education and employment, and that they also encountered difficulties in changing the sex on their birth certificates. It had also learned that there was a ban on adoption

for same-sex couples. She would be grateful if the delegation would describe what was being done to raise awareness of those issues in the population at large and to reduce such discrimination. Had the State party considered adopting legislation prohibiting discrimination on the basis of sexual orientation or gender identity? What efforts were being made to strengthen the legal prohibition and criminalization of discrimination in general? With regard to equality between men and women, over and above the legislative framework, such as the Act establishing the Ministry for Women, she would like to know what budgetary, technical and policy measures were being taken to reinforce the implementation and oversight of gender equality policies.

13. The Committee would appreciate information on measures to guarantee asylum-seekers and refugees access to social services such as education, health care, employment and grants. For example, what tangible benefits had Executive Decree No. 5 of 2018 brought to asylum-seekers in terms of the enjoyment of economic, social and cultural rights? Lastly, she wished to know what progress had been made in adopting and promulgating the amendments to the Electoral Code intended to ensure political parity at the next elections.

14. **A representative of Panama** said that the fundamental guarantees and rights enshrined in the Constitution of Panama would always be interpreted in light of the Covenant, and the provisions of the Covenant would always be applied when they provided greater protection of rights than the provisions of the Constitution. It was understood that mainstreaming the Covenant required the adaptation of existing legal frameworks and approaches to the interpretation of the law that took account of new social realities.

15. The provisions of the Covenant had been applied in several Supreme Court rulings. In May 2017, the Court had recognized the right to water based on the Covenant and the Committee's general comment No. 15 (2002). Supreme Court rulings recognizing the right to an adequate standard of living and the right to health had also explicitly referred to articles of the Covenant. The Court had invoked the Covenant in rulings handed down in December 2019 and November 2020 in two cases relating to the right to work and the right to form and join trade unions. It had also referred to the Covenant in a ruling relating to the remuneration of remote workers for time spent on call outside of regular working hours.

16. **A representative of Panama** said that a comprehensive legal framework was in place to regulate businesses and prevent discrimination in employment. The Ministry of Labour and Workplace Development had created a General Inspection Directorate which, within a five-year period, had carried out over 68,000 inspections. Its inspectors had received training in matters such as migration, safety, hygiene, child labour and gender-based discrimination. Discrimination and harassment in the workplace were offences under the Criminal Code. Panama had ratified the International Labour Organization (ILO) Violence and Harassment Convention, 2019 (No. 190). Under national law, maternity leave could now be transferred to the father in cases where the mother had died in childbirth or in the 12 months after giving birth. Breastfeeding in the workplace was now permitted for 15-minute periods every three hours or every two hours during lunch breaks.

17. **A representative of Panama** said that Panama, like many developing countries, was encountering more and more difficulties in maintaining its cultural traditions and way of life as a result of climate change, although the people of Panama had generally been respectful of the environment and of their natural resources. According to the country's second biennial update report under the United Nations Framework Convention on Climate Change, Panama was now carbon-negative, with its forests absorbing more carbon than the country produced. The energy and agriculture sectors were among those which produced the greatest carbon emissions, but a road map had been developed to reduce such pollution and a national strategy had been drawn up to promote the use of electric vehicles. A national programme was in place to reforest degraded land across the country, with a particular focus on areas that provided water and ecosystem services. The programme's objectives would be updated every five years. A capacity-building project in the Kusapín district of the Ngöbe-Buglé Indigenous region aimed to strengthen national and local resilience to the risks posed by climate change.

18. **A representative of Panama** said that Panama would undertake the necessary consultations to evaluate its future accession to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The process would be supported by an

exhaustive analysis of the legislative impact of accession to and implementation of the Optional Protocol, since the obligations it entailed would have to be understood by all key State and non-State actors.

19. **A representative of Panama** said that businesses and organizations were legally obliged to follow a process of consultation and free, prior and informed consent when carrying out projects on indigenous land. Consultations were conducted with local, regional and general Indigenous congresses and a multisectoral board had been set up to provide updates on such consultations. Once the necessary processes had been completed, assemblies were called to certify that consultations had taken place. In the case of the Chiriquí Grande-Panamá III power line project, 12 consultations had been carried out.

20. **A representative of Panama** said that data were collected by means of various surveys. Data from a population and housing census currently under way would be available by November 2023. To strengthen State data collection, an executive decree had been issued setting out the guiding principles of the State data collection system, a consultative committee for social statistics had been created, and a code of best practices for data collection had been approved.

21. **A representative of Panama** said that the Electoral Court had been in direct communication with organizations of transgender persons since 2018, which had led to the organization of conferences at which guidance had been provided on the processes for changing one's legal name and sex as established by the Civil Registry Act. During the general elections of 2019, five transgender persons whose sex had been changed on their identity documents since they had been registered as voters had still been able to exercise their right to vote. An expedited procedure allowed all persons, without discrimination, to change their legal name without needing a lawyer or proof. There was the option to submit documentary proof. With regard to the process for changing the sex on a person's birth certificate, the civil registry had taken a broad approach to the interpretation of the American Convention on Human Rights to ensure the greatest possible protection of those rights. Accordingly, legal name changes were always permitted provided that the requirement of a forensic medical report was met.

22. **A representative of Panama** said that, with regard to adoption for same-sex couples, the Family Code established that marriage was a voluntary union between a man and a woman, while Act No. 46 of 2013, which set out the legal framework for adoption, allowed both married and single persons to apply to adopt a child.

23. **A representative of Panama** said that Executive Decree No. 5 of 2018, which had introduced changes in the asylum system, had strengthened the country's commitment to guaranteeing international protection. Gender-based persecution was now recognized as a motive for granting refugee status. Since 2019, work permits had been provided to persons applying for refugee status, with 113 persons having benefited to date. Access to formal work was a key step for those applying for refugee status, as it allowed them to earn a living, be self-sufficient and contribute to their new communities. Refugees and asylum-seekers enjoyed equal access to public health services, including free vaccines.

24. **Ms. Lemus de Vásquez** said that she would appreciate a reply to her questions about the downgrading of the Ombudsman's Office to B status and about steps taken to establish an impartial and transparent procedure for the appointment of the Ombudsman. With regard to the National Plan for Social Responsibility in the Public and Private Sectors, she would like information on any plans to establish an effective complaint system or support mechanism for victims of human rights violations committed by public or private companies.

25. **Mr. Mancisidor de la Fuente** (Country Task Force) said that he would welcome further details of how the State party protected the rights of same-sex couples and their families.

26. **Ms. Lemus de Vásquez** said that she would be grateful for information on the legal framework for the prohibition of discrimination in employment, particularly discrimination based on language or nationality. She also wished to know what measures were being taken to guarantee the right to work for those applying for refugee status, including integration programmes for asylum-seekers and systems to recognize any skills and qualifications

obtained abroad. It was her understanding that the Constitution of Panama permitted distinctions to be made between Panamanian nationals and foreigners in labour law, and that there was currently a list of occupations which were reserved for citizens. She wished to know whether the State had considered reviewing that list and allowing opportunities in those occupations for foreign workers. Given that the asylum process could take many years, which could place asylum-seekers in situations of vulnerability, she wondered whether the State would consider granting work permits to asylum-seekers, independently of whether their applications for asylum had been accepted.

27. The wage gap, combined with the impact of the COVID-19 pandemic, had exacerbated the disadvantages faced by women in the labour market, especially since many women worked in the informal sector or in domestic service. She wished to know what measures were being taken to guarantee equal pay for equal work and to ensure that women who were domestic workers or temporary workers received equal treatment.

28. She wondered what measures were being taken to protect the jobs, incomes and benefits of all workers, including those in the informal labour market. She would welcome information, including disaggregated statistical data, on informal work and the impact of any measures taken to promote its formalization.

29. She would like to know what legislative steps were being taken to ensure that domestic workers received the same treatment as workers in general with regard to working hours, wages, overtime and rest periods. She would also like to hear about the procedure for reviewing the minimum wage in order to improve the quality of life of workers and their family. She would be grateful for information about the way in which the tripartite social dialogue was being promoted. It would also be useful to have a description of the measures taken to beef up labour inspections, as well as up-to-date data on labour inspectorates' human and financial resources. She wondered whether labour inspections had led to any improvement in working conditions. She was particularly eager to learn of any specific measures to improve occupational safety in the agricultural sector. Recent data on child labour and information on any measures adopted to eliminate it by 2025 would be appreciated.

30. She would like to know what had been done to bring national legislation into line with article 8 of the Covenant. In particular, she would like to hear what measures had been adopted to remove the ban on trade unions in the Colón Free Trade Zone and on domestic workers' unionization. In addition, she would be grateful for information about the steps taken to secure the right to strike for workers in the Canal Zone. Lastly, she wondered whether the amendment of the organic law governing the Social Security Fund had had a beneficial impact on the rights of insured persons. She would like to hear what had been done to increase the percentage of the economically active population with social security coverage and, in particular, provide coverage for domestic workers and persons in Indigenous region. Similarly, she would be grateful for information on specific measures to ensure universal coverage of the social security system, including coverage for persons with disabilities, workers in the informal sector, persons performing unpaid care and domestic work, and disadvantaged and marginalized groups of persons.

31. **A representative of Panama** said that a decision on the merits of two joined cases that challenged the constitutionality of the prohibition of same-sex marriage was still pending.

32. **A representative of Panama** said that the main goal of the multidisciplinary team specializing in tax offences was to provide for the effective investigation of tax fraud. The team was currently conducting 3 investigations into tax evasion at the local level and 10 into money-laundering in connection with tax offences committed abroad. Two convictions had been handed down, and a sum of over \$1 million had been recovered.

33. **A representative of Panama** said that asylum-seekers whose applications had been accepted were entitled to receive a work permit. The "Talent without Borders" programme helped to identify refugees' employability skills.

34. **A representative of Panama** said that steps were taken to avoid all forms of labour discrimination against foreigners. Those who were lawfully present in the country could be

issued with work permits. Migrants could obtain information and apply for permits online on the website of the Ministry of Labour and Workforce Development. Of 168,570 applications received from foreigners in the period 2018–2022, 152,441 had been approved. There were no immediate plans to review the list of occupations that were reserved for Panamanian nationals.

35. Under Panamanian law, there was no discrimination between men and women with regard to remuneration. Legislative provisions, policies and practices to prevent discrimination against women workers in the public and private sectors and ensure equal pay had been strengthened. Complaints about wage discrimination could be lodged with the Ministry of Labour and Workforce Development. Labour inspectors had been sensitized to the issue of equal remuneration and trained to look into it during their inspections. The steps needed to ensure that at least 30 per cent of the members of the governing boards of public and private entities were women had been identified in the implementing regulations for Act No. 56 of 11 June 2017. Campaigns had been conducted in the period 2020–2021 in the private and public sectors to promote gender equality and raise awareness of the Gender Equality Seal initiative. Measures had been taken to prevent sexual harassment in the workplace.

36. The transition of workers from the rather large informal sector to the formal labour market would require upskilling to enable workers to access job opportunities. To that end, strategic partnerships had been formed between the Government and private enterprise to provide job training. In addition, internships and apprenticeships were offered to young people under a youth employment project to help them join the workforce.

37. The minimum wage in 20 occupations had been reviewed on a tripartite basis by the National Minimum Wage Commission. That wage was supposed to be enough to pay for a basic food basket for a family of 3.5 persons. Wages of workers in the agriculture and other vulnerable sectors were increased regularly. For example, the minimum wage of workers on banana plantations had recently been increased by 13 per cent. Child labour was prohibited and no distinction was drawn in that respect between foreign and Panamanian children. Numerous programmes, including a scholarship programme for children, had been set up with a view to eradicating child labour. The Ministry of Labour and Workforce Development had joined forces with a number of organizations to eradicate child labour in the informal sector.

38. There were some 450 trade unions in Panama. In 2019, 15 had been set up in the public sector. The Constitution prohibited strikes by workers in the Canal Zone. They could, however, seek mediation in the event of a labour dispute.

39. **A representative of Panama** said that the Ministry of Labour and Workforce Development had 30 days to respond to a written complaint of a human rights violation submitted through the Ombudsman's Office. If appropriate, legal proceedings were then initiated to enforce the rights of the person concerned. The Directorate of Labour inspection was taking steps to ensure that the rights of all workers, including foreigners, were protected. A survey had been conducted with the aim of protecting the rights of domestic workers.

40. **A representative of Panama** said that the National Council for the Comprehensive Development of Indigenous Peoples had set up a body to discuss public policy, programmes and plans to ensure equal job opportunities and equal pay for Indigenous persons. The Government had devised a programme for the economic empowerment of Indigenous women that also sought to ensure that they enjoyed equal conditions of employment, including equal pay.

41. **A representative of Panama** said that the Ombudsman was selected through a democratic process by the National Assembly and the independence of the Ombudsman's Office was fully respected.

The meeting rose at 6.05 p.m.