



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

PANAMA

1. The Committee considered the third periodic report submitted by Panama (CCPR/C/PAN/3) at its 2520th and 2521st meetings (CCPR/C/SR.2520 and 2521), held on 24 and 25 March 2008, and adopted the following concluding observations at its 2535th meeting (CCPR/C/SR.2535), held on 3 April 2008.

A. Introduction

2. The Committee welcomes Panama's third periodic report, while noting the significant delay in its submission. The report contains detailed information on the State party's legislation and on its new legislative projects. However, the Committee regrets that the report does not provide sufficient information on the effective implementation of the Covenant. The Committee expresses its appreciation for the written responses to its list of questions and the replies to the oral questions posed to the delegation, which facilitated an open and constructive dialogue.

B. Positive aspects

3. The Committee notes with satisfaction the legislative reforms carried out by the State party, in particular the adoption of a new penal code, the repeal of the contempt laws and the process of review of the Code of Criminal Procedure which is intended, inter alia, to improve the guarantees of due process for all those in detention pending investigation.

4. The Committee also welcomes the adoption of the law on domestic violence and the adoption of legislative and administrative measures to prevent stigmatization of and discrimination against people living with HIV/AIDS.

5. The Committee welcomes the various measures adopted for persons with disabilities, including the establishment of the National Consultative Council for the Social Integration of Persons with Disabilities (CONADIS) and the ratification of the Convention on the Rights of Persons with Disabilities.
6. The Committee welcomes the recent adoption of legislation that allows refugees who have been in the country for 10 years or more to request permanent residence.

C. Principal subjects of concern and recommendations

7. The Committee notes the authorities' follow-up to the 2002 report of the Truth Commission, which attests to violations of the right to life, including disappearances, that occurred between 1968 and 1989. Nevertheless, the Committee is concerned that the legal investigation in many of the documented cases has not yet been concluded, while others have been declared time-barred (articles 2 and 6 of the Covenant).

The State party should ensure that all cases of serious human rights violations, including those documented by the Truth Commission, are duly investigated, that those responsible are brought to justice and, where appropriate, punished and that the victims or their family members receive fair and adequate compensation. The statute of limitations on offences involving serious human rights violations should be abolished.

8. The Committee notes with concern that, according to article 12 of the Constitution, the State may deny a request for naturalization for reasons of physical or mental incapacity (article 2 of the Covenant).

The State party should modify the Constitution with a view to eliminating this discriminatory provision that is contrary to the Covenant.

9. The Committee expresses its concern at the restrictive legislation on abortion in the Criminal Code, in particular the limitation that it should be carried out within the first two months of pregnancy in the case of conception that occurred as a result of rape, which should be duly documented in court proceedings (article 6 of the Covenant).

The State party should amend its legislation so that it effectively helps women avoid unwanted pregnancies and so that they do not have to resort to illegal abortions that could endanger their lives.

10. The Committee notes with concern that there continue to be cases of abusive treatment of prisoners by law enforcement officers, especially in prisons but also at the time of arrest by the police, in most cases without such conduct being punished (article 7 of the Covenant).

(a) The State party should take immediate and effective measures to put an end to these abuses and to monitor, investigate and, where appropriate, bring to justice and punish members of law enforcement bodies who commit abuses. In this connection, the State party should provide the Committee with statistics on criminal and disciplinary proceedings initiated for this type of conduct and the results of those proceedings;

(b) The State party should strengthen human rights training measures for law enforcement personnel so that they do not engage in such conduct;

(c) The Committee notes with satisfaction the information provided by the State party to the effect that it is considering ratification of the Optional Protocol to the Convention against Torture, which provides for the establishment of mechanisms for regular visits to places of detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. The Committee trusts that such ratification will take place.

11. In spite of the efforts currently being made to improve prison conditions, including alternative measures to prison, the Committee is concerned by the high levels of overcrowding and poor prison conditions, especially unsanitary conditions, a lack of safe drinking water and scarce medical care, as well as the shortage of staff and the lack of separation between accused and convicted persons (article 10 of the Covenant).

The State party should take steps to put an end to overcrowding in detention facilities and to ensure compliance with the requirements established in article 10. In particular, the State party should take measures with a view to the application in Panama of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.

12. While noting with satisfaction the efforts made to reduce the delay in the judicial process and to decrease the number of prisoners in preventive detention, the Committee expresses concern at the continuing high percentage of prisoners in that situation, as well as the extended duration of pretrial detention (articles 9 and 10 of the Covenant).

The State party should take prompt measures to reduce the number of persons in pretrial detention and the time of their detention in that situation, such as greater recourse to preventive measures and bail and a greater use of electronic bracelets.

13. While noting that the State party is aware of the problem, the Committee expresses its concern at the delays in processing applications for habeas corpus as well as the limited number of officially appointed counsel in Panama (articles 9 and 14 of the Covenant).

The State party should take steps to ensure that this type of application is processed as promptly as possible in order to guarantee its effectiveness and its raison d'être. The State party should also take measures to increase the number of officially appointed counsel in the country with a view to guaranteeing the right to defence of all citizens, including those who cannot afford the services of a lawyer.

14. The Committee notes with concern that many refugees, particularly those who do not have a formal status, live in a precarious economic and legal situation and that, in general, legislation does not guarantee to all foreigners in Panamanian territory who require international protection, including refugees, stateless persons and persons falling into other categories, the rights to which they are entitled under international law, including refugee law, in particular the State's obligation not to expose such persons to treatment contrary to articles 6 and 7 of the Covenant (articles 2, 6, 7 and 9 of the Covenant).

The State party should adopt legislation that will allow refugees to enjoy their rights under the Covenant and comply with its obligation not to extradite, deport, expel or otherwise remove a person from its territory where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated in articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed.

15. The Committee is concerned that, despite the constitutional guarantee of the freedom to practise all religions, that freedom is limited by a requirement to respect Christian morals, which could potentially give rise to instances of discrimination against persons of other religions and persons without religious convictions (article 18 of the Covenant).

The State party should guarantee full equality in respect of the right to freedom of thought, conscience and religion, which is recognized in the Covenant, and should avoid any possibility of discrimination in this regard.

16. The Committee expresses concern at the discrimination against women in respect of employment, including access to employment, and at the wage gap, despite the fact that female enrolment in higher education exceeds that of males. The Committee is also concerned by information it has received indicating that, despite the legal prohibition against the practice, pregnancy tests are still required of female job seekers (articles 26 and 3 of the Covenant).

The State party should increase its efforts to combat discrimination against women in the workforce in order to ensure, inter alia, equal opportunity in employment, equal pay for equal work and the abolition of pregnancy tests as a requirement for access to employment. Failure to respect the prohibition on pregnancy tests should be effectively punished.

17. The Committee regrets that, despite legal provisions aimed at promoting women's participation in political life, their participation rate continues to be low, whether in respect of elected office or of discretionary appointments (articles 3, 25 and 26 of the Covenant).

The State party should comply with the goals set out in the Equal Opportunity Act and, in particular, take steps to ensure increased access by women to the highest levels of the civil service.

18. The Committee welcomes the existence of a law against domestic violence and the measures taken to ensure its application. Nonetheless, the Committee is concerned by the high incidence of domestic violence, the many women who have died as a result of such violence and the impunity of the perpetrators (articles 3 and 7 of the Covenant).

The State party should increase its efforts to implement the law on domestic violence and protect women victims of such violence, such as the creation of a sufficient number of shelters where they can live in dignity, police protection for victims and the investigation and punishment of the perpetrators. In this regard, the Committee would welcome statistics on ongoing cases for domestic violence and their outcomes.

19. The Committee, while taking note of the efforts made by the State party to register all births, regrets the fact that some persons still remain unregistered, especially in rural areas and indigenous communities (arts. 16, 24 and 27).

The Committee recommends that the State party strengthen the necessary programme and budgetary measures and take into consideration the good practices of other countries in this area in order to ensure the registration of all births and other vital details related to civil status throughout its national territory as well as the registration of all adults.

20. The Committee notes with concern that, despite the fact that the Constitution prohibits persons under the age of 14 years from working, including as domestic workers, and despite legislative measures to prohibit the worst forms of child labour, the rate of child labour in the country continues to be high (arts. 8 and 24).

The State party should adopt urgent measures in order to ensure the full application of the law aimed at eradicating child labour, such as the establishment of an effective inspection system. The State party should also ensure that all school-age children receive a full education.

21. The Committee expressed its concern at the information included in the State party's report and received from non-governmental sources on the existence among the general population of racial prejudices against indigenous people and also on the many problems that affect indigenous communities, including serious shortcomings in health and education services; the lack of an institutional presence in their territories; the absence of a process of consultation to seek the prior, free and informed consent of communities to the exploitation of natural resources in their territories; the ill-treatment, threats and harassment to which members of the communities have reportedly been subjected on the occasion of protests against hydroelectric infrastructure construction projects, mining operations or tourism facilities on their territory; and the non-recognition of the special status of indigenous communities that are not within a *comarca* (articles 1, 26 and 27 of the Covenant).

The State party should:

- (a) Effectively guarantee the right to education of indigenous people and ensure that the education is appropriate to their specific needs;**
- (b) Ensure the access of all indigenous people to adequate health services;**
- (c) Carry out a process of consultation with the indigenous communities before granting licences for the economic exploitation of the lands in which they live, and to ensure that in no case shall such exploitation violate the rights recognized in the Covenant;**
- (d) Recognize the rights of indigenous communities that live outside the *comarcas*, including the right to collective use of their ancestral lands.**

22. The Committee sets March 2012 as the date for the submission of the fourth periodic report of Panama. It requests that the State party's third report and the present concluding observations be disseminated to the general public as well as to the judicial, legislative and administrative authorities. Hard copies of these documents should be distributed to universities, public libraries, the Parliamentary library and all other relevant places. It also requests that the third periodic report and these concluding observations be distributed to civil society and to non-governmental organizations operating in the country. It would be desirable to distribute a summary of the report and the concluding observations to the indigenous communities in their own languages.

23. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 11, 14 and 18 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.
