

## PANAMA

### CESCR E/1992/23

(Arts. 6-9, 10-12 and 13-15)

95. The Committee considered the initial reports of Panama concerning the rights covered by articles 6 to 9 and articles 13 to 15 of the Covenant (E/1984/6/Add.19 and E/1988/5/Add.9), the second periodic report of Panama concerning the rights covered by articles 10 to 12 (E/1986/4/Add.22) and additional information submitted by Panama concerning the rights covered by articles 6 to 10 and article 12 (E/1989/5/Add.5) at its 3<sup>rd</sup>, 5<sup>th</sup> and 8<sup>th</sup> meetings, held from 26 to 28 November 1991 (E/C.12/1991/SR.3, 5 and 8).

96. The representative of the State party introduced the reports and noted that the Constitution of Panama guaranteed the fundamental rights set forth in the Covenant. The implementation of some of these rights, however, had been impeded by the economic crisis resulting from the sanctions imposed by the Government of the United States of America since 1988 and the vandalism and disorder that accompanied the subsequent invasion of Panama by American forces. More than 250 commercial or industrial business concerns had been seriously affected, adding to the problems of unemployment and underemployment. However, over the last 18 months, unemployment had dropped and private companies had made progress in economic reconstruction.

97. The public sector of the economy, however, remained in difficulty, as economic aid from international organizations remained low. Even though the Government faced a number of difficulties in repaying the external debt accumulated by the previous Government, Panama had not had its foreign debt partially or totally cancelled, as was the case for some of the neighbouring countries. Finally, the representative pointed out that the social and economic situation had changed significantly since 1986, the year on which the per capita indicators employed by international organizations had been based. They would have to be updated.

#### General matters

98. With regard to the general framework within which the Covenant is implemented, members of the Committee requested information on the measures taken to ensure the exercise of the rights set forth in articles 6 to 15 of the Covenant, taking into account the provisions of articles 2 and 3; the progress that had been made in this area and the difficulties encountered in ensuring the full exercise of the rights guaranteed; the limitations on the exercise of these rights and the safeguards provided against abuses; how the Covenant had been incorporated into domestic legislation and the steps taken by the responsible authorities to adequately publicize the rights set forth in the Covenant. Members of the Committee requested detailed information on the use of ODA or international cooperation from United Nations or regional bodies in the implementation of programmes for the promotion of the rights set forth in the Covenant. In this regard, members also wished to be informed about the forms of international cooperation and, in particular, the percentage of the assistance received

through this cooperation devoted to the country's development and the enjoyment of rights covered in the Covenant.

99. The representative of ILO provided the Committee with information concerning the ratification and implementation of relevant ILO Conventions by Panama. Problems had been noted by ILO in the application of the Labour Inspection Convention, 1947 (No. 81) and also regarding certain recent measures taken by the Government of Panama limiting the right to strike. He referred, in particular, to past difficulties encountered by the competent organs of ILO in obtaining specific information requested from the Government of Panama pursuant to the conventions. He noted however that the Government of Panama had since requested, and received, technical assistance from ILO to resolve these reporting problems.

100. In his reply, the representative of the State party explained that the exercise by the Panamanians of their rights under the Covenant were subject neither to restriction nor racial discrimination. Furthermore, there were judicial and administrative procedures to which all Panamanian citizens had recourse. In regard to international assistance, the representative stated that Panama did not receive loans from international organizations for the purpose of supporting social projects.

101. The representative also noted that Panama had ratified most of the ILO Conventions which guaranteed the rights of workers and that 24 reports required under those conventions had been submitted to ILO in June 1991. A number of other reports, which had been due in 1990, would also be submitted by the end of 1991.

#### Article 6: Right to work

102. Members of the Committee asked for information on the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts and in particular the absence of constraint in choosing employment, as stipulated in article 59 of the Constitution. Additionally, the Committee wished to know what guarantees were provided against discrimination in respect of access to employment; how protection was provided against arbitrary dismissal; and whether legal action could be initiated against the State in cases where the constitutional right to work was violated.

103. In answer to the questions posed, the representative of the State party pointed out that the right to freely choose one's employment was guaranteed in the Constitution and that in practice Panamanians were not constrained to remain at their jobs nor were they compelled to work overtime, except in the case of a life-or-death emergency. The Panamanian labour code protected workers from arbitrary dismissal and extended special measures of protection to union officers, pregnant women and nursing mothers.

104. The representative pointed out that, in 1987, the unemployment rate was found to be 20 per cent in the metropolitan areas and accounted for 45,000 unemployed workers at the time. A year later, the number of unemployed had nearly tripled to 125,158. According to the latest figures, the unemployment rate had dropped over the past two years to 15.7 per cent. Protecting the right to work meant, in actual practice, that the Government should adopt policies that favour full employment and that it was not incumbent upon the Government to attempt to provide a job to each

citizen.

105. In addition, the representative of the State party noted that while under the provisions of the Penal Code detainees could receive a reduction of two days in their sentence in exchange for each day of work performed in public service, this did not constitute forced labour. New draft legislation had been prepared, in this regard, with the assistance of an expert from the ILO and was presently being examined by the Council of ministers. Similarly, new legislation concerning maritime workers had also been drafted with the assistance of ILO and submitted to the National Assembly for approval in September 1991.

106. In regard to the points raised concerning employment discrimination in the Canal Zone, the representative said that it was administered by the United States of America and was, therefore, outside the reach of Panamanian laws and regulations. Although there were about 14,000 Panamanians working in the Canal Zone, employment in the security sector was expressly reserved to citizens of the United States under the terms of the 1977 accord between Panama and the United States. That was the only restriction to which Panamanian workers were subjected and which could not be considered as discriminatory in respect of race, colour or origin.

#### Article 7: Right to just and favourable conditions of work

107. Members of the Committee requested further information regarding measures taken to ensure that inspection of working conditions by the responsible authorities was effectively undertaken. Members also wished to know why public holidays were compulsory in Panama and why workers were not allowed to work during holidays in exchange for wages.

108. In his reply, the representative of the State party said that Panama, which had ratified the relevant ILO Conventions, observed the principle of holidays in order to ensure that workers had sufficient time off to have adequate rest.

#### Article 8: Trade union-rights

109. Members of the Committee requested information on the factors and difficulties preventing the full exercise of trade union rights in all their aspects. In particular, members requested detailed information on Law No. 25, which had the effect of limiting the exercise of trade union rights by workers employed in the public sector.

110. In his reply, the representative of the State party stated that the Labour Code, as well as the Constitution, guaranteed trade union rights. Concerning Law No. 25, the representative explained the context in which the act had been adopted. The leadership of the public employees' union had organized a protest for 4 December 1990, a date which coincided with a coup that was attempted by the former head of the security forces. In view of the emergency situation, the Government requested the public employees to reconsider the protest but the decision was made to go ahead with the strike indefinitely even as the putschists were making progress in their attempt to seize power. It was under these circumstances that the Government adopted Law No. 25, which allows for the dismissal of employees in the public sector for participating in strikes that put the national security of the country

at risk. The law provides, nevertheless, for an administrative recourse procedure for employees dismissed in this way. For example, of the 147 employees of the Instituto de Recursos Hidraulicos y de Electrificación ( Water Resources and Electrification Institute) who lost their jobs under the law, 15 were reinstated after having used the proper administrative recourse. Anyone whose appeal was rejected under the administrative procedure could petition the Supreme Court. In a recent decision, the Supreme Court ruled that article 2 of Law No. 25 was unconstitutional but upheld the legality of the rest of the provisions, citing the right of the Government to preserve the integrity of the State.

111. Also in regard to article 8 of the Covenant, the representative pointed out that relevant legislation (Law No. 13) had been adopted in October 1990 in an effort to maintain current pay scales and insure agreed-upon periodic raises despite the worsening economic crisis in the country. According to article 3 of the Law, workers and employers were not excluded from negotiating improvements in working conditions or compensation levels.

#### Article 9: Right to social security

112. The representative informed the Committee that the range of benefits included under the present social security system was very broad and that more than 50 per cent of the Panamanian population was covered by the system.

#### Article 10: Protection of the family, mothers and children

113. Members of the Committee requested information on specific measures that had been taken with a view to maintaining, strengthening and protecting the family; on special measures taken to protect children and young people against economic, social or other forms of exploitation, neglect cruelty or trafficking; on the more than 20,000 children in Panama working on a part-time basis, particularly in regard to their rate of literacy; and on the situation in Panama regarding children living in the street and measures being taken to provide adequate protection for them. Members also requested information concerning the situation of elderly persons in Panama and wished clarification of the statement that an estimated 60 per cent of Panamanian youth were addicted to drugs. Finally, with reference to article 57 of the Constitution, members asked for information how civil authorities in Panama regulated the issue of family documents falling within the jurisdiction of the Church.

114. In his reply, the representative of the State party pointed out that the social security system provided for a maternity leave of 14 weeks, during which time the insured was eligible to receive her full salary. In regard to the protection of children, the representative noted that Panama had ratified the Convention on the Rights of the Child and was presently in the final stages of concluding a draft revision of the Family Code. Since the adoption of the Constitution in 1946, Church authorities have had to conform to the Civil Code in respect of questions concerning family, women and children. As a result, it was forbidden to mention the parentage of children in the civil registry in order to avoid any possibility of discrimination against illegitimate children. Panamanian law prohibited children between the ages of 14 and 18 from employment in conditions which may be hazardous to their health or moral development or from taking part in economic activity which may hinder their studies. The Penal Code provided for the punishment of offenders in regard to the abandonment of minors or for abuse inflicted upon them. A special tribunal for minors had been established in this regard.

115. Concerning the problem of drugs, the representative himself was concerned about the statistic that 60 per cent of Panamanian youth were using drugs. He stated that the problem of drug addiction in Panama was relatively minor when compared to the problem in other countries in the region. With regard to the situation of elderly persons, the representative stated that retirement benefits fluctuated between 130 and 1,500 balboas each month. There were retirement homes and associations for retired persons which pressed for improvement of the situation. Generally, the elderly were cared for by their family, as was the custom in Panama.

#### Article 11: Right to an adequate standard of living

116. Members of the Committee requested information on the principal laws, regulations, collective agreements and court decisions, if any, designed to promote the right of everyone to adequate food; on measures taken to improve methods of agricultural production, to improve and disseminate knowledge regarding methods of food conservation and protection of harvests and improve food distribution and food consumption levels, with particular reference to the most vulnerable groups of population; on participation by the Government in international cooperation efforts and projects aimed at ensuring the right of everyone to be free from hunger; and on statistical and other available data on the realization of the right to adequate food.

117. Members of the Committee also wished to receive information on the principal laws, regulations and collective agreements designed to promote the right to adequate clothing; on the measures and specific programmes undertaken to improve the methods of production and distribution of articles of clothing; and on the extent to which the Government has participated in international cooperation contributing to the promotion of this right; and on the situation in rural areas, including measures taken or envisaged to solve the special problems of housing, water supply and sanitary conditions. Members also wished to know if the distribution of income had improved since 1973, the year for which available statistics indicated that the poorest 40 per cent of Panamanian households accounted for only 7 per cent of all income earned in the country. Members of the Committee expressed concern for the thousands of inhabitants of El-Chorillo, whose homes had been destroyed by Panamanian and American forces in early 1990, and requested further information concerning the forced evictions of families in Tocumen, San Miguelito and Panama Viejo.

118. In his reply, the representative of the State party said that the right to an adequate standard of living remained a fundamental concern in Panama. In this regard, the Government had restructured the Department of Social Welfare, created a tripartite commission to raise the minimum wage and was planning to exempt from taxation persons at the lower-income level.

119. In regard to measures foreseen to diminish adverse social consequences stemming from economic adjustment, the representative explained that compensation for workers losing their jobs as a result of the privatization of the public sector would be the responsibility of the party purchasing the enterprise. There was additionally a programme under which workers quitting public sector employment in order to start their own businesses were given a compensation equivalent to 12 months of their salary plus the thirteenth month. Other Government initiatives in this regard included programmes to provide food and snacks for schoolchildren, particularly in areas where the economy was significantly depressed. There were also soup kitchens located in the cities, while clubs and

religious organizations distributed basic necessities in the outlying areas. Additionally, responsible Government agencies, as well as a number of non-governmental organizations, carried out programmes providing technical assistance, farming equipment and seeds for raising basic food crops, including pisciculture.

120. With regard to the right to adequate clothing, the Government had concluded agreements with clothing manufacturers to provide, at reduced cost, uniforms and shoes for needy school children. Thanks to the support of private sector organizations, poor children benefited from the programme free of charge.

121. The Minister of Housing had undertaken programmes to provide low-cost housing to the population. In rural areas, the beneficiaries provided the manpower while the Government provided the plans, building materials and technical assistance. In Colon, where the housing problem was especially acute and many of the wooden houses were unsanitary and decaying, a fund for the construction of new housing had been created from taxes on special services in the free zone of Colon. There were a number of other Government programmes focussing on the unemployed and the needy, including a substantial programme for the construction of low-income housing. In the zone of Colon, where the economy and unemployment situation was especially difficult, a special tax had been instituted to finance housing and social programmes.

122. Persons whose lodgings had been in areas destroyed by Panamanian and American forces were free to return to their former neighbourhoods. Three apartment buildings had already been constructed for this purpose and three others were nearing completion. Additional accommodations had been built in other locations for those who had wished to move. The United States had provided financial aid for the families affected.

#### Article 12: Rights to physical and mental health

123. Members of the Committee requested information on the measures taken to protect and improve all aspects of environmental and industrial hygiene and to prevent air, land and water pollution; and on measures to overcome problems associated with urban development and industrialization.

124. With regard to the right to physical health and mental health, the representative of the State party noted that there were in Panama several integrated health care systems with the purpose of protecting the population, particularly in rural and economically depressed areas. In addition to hospitals, there were small district clinics as well as medical teams that went into areas where access was difficult. Health care and pharmaceutical products were available free of charge to the needy. Additionally, the Government organized vaccination campaigns aimed at eradicating malaria and controlling cholera as well as programmes for the prevention of AIDS and venereal disease.

125. With regard to industrial pollution, the representative pointed out that since Panama had no heavy industry, pollution was not a serious problem.

#### Articles 13 and 14: Right to education

126. Members of the Committee requested information on the measures taken to promote the full realization of the right of everyone to education (with a view to developing the teaching of human rights); on measures to provide financial and other assistance to students in higher education, including measures directed at the progressive introduction of free higher education; and on the difficulties hampering efforts to make higher education equally accessible to all, including, in particular, problems of discrimination. Members also asked for information on legislative measures, regulations or other specific provisions that had been introduced to ensure freedom of education and on the difficulties encountered concerning the realization of that right.

127. In his reply, the representative of the State party said that primary and secondary education in Panama was compulsory and provided without charge. Books, notebooks and various other necessities were also provided free of charge. Presently, 92.5 per cent of all 6- to 11-years old children in Panama attended school. Private schools were allowed and encouraged in Panama but the teaching staff of these schools were subject to State regulation. The cost of higher education was negligible and there were, additionally, scholarship funds available at all levels of education, including overseas study. Teacher Training is an ongoing concern and is supported by assistance from UNDP, ILO and the Regional Programme for Employment in Latin America and the Caribbean (PREALC).

128. With regard to discrimination, the representative noted that there was even less discrimination in education than in employment. Private and foreign universities were open to students without distinction as to race, religion or political conviction. The educational system, public and private, was founded on the principle of educational freedom.

Article 15: Right to take part in cultural life and to enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

129. Members of the Committee requested information on the principal laws, regulations collective agreements, court decisions and other relevant provisions to ensure the rights under article 15 of the Covenant, including the conservation, development and diffusion of science and culture, freedom of scientific research and creative activity and the encouragement and development of international contacts and cooperation in the scientific and cultural fields. Members also asked for information on the specific measures taken in these areas to promote the enjoyment and exercise of those rights, on the difficulties encountered and on the legal restrictions. Members of the Committee noted that indigenous groups were among the least privileged sectors of Panamanian society and asked for information as to the reasons for this and the significant illiteracy rate among the indigenous population and concerning measures taken to promote indigenous culture.

130. In his reply, the representative of the State party said that the Government was planning the creation of cultural centres. There were many theatres and concert halls in the country as well as the National Institute of Culture. The rights of authors and the protection of intellectual property were guaranteed. There were two television stations that specialized in providing cultural programmes. The National Institute of Culture was responsible for the right covered by article 15 of the Covenant, whereas scientific research and authorship were regulated under the framework of the educational system. The State actively encouraged and subsidized diverse cultural activities such as classical music, ballet, folkloric productions and theatre.

131. With regard to the situation of indigenous groups in Panama, the representative explained that the majority of the indigenous population lived according to their own customs in the reserves designated for them. There were five such reserves which were remote and difficult to reach. This explained why educational programmes for the indigenous population were carried out only in the cities. Sixty-three per cent of the indigenous population was illiterate, with women being disproportionately represented in that figure. That high rate was due to a number of factors, such as the dispersion of the groups in remote areas and tribal prohibitions against contact with outsiders. For that latter reason, in particular, the Government had undertaken an effort to make basic education available to the various indigenous groups through the use of teachers who were themselves indigenous. It was felt that those specially trained indigenous teachers would be appropriate because of their bilingualism and would also be in a position to respect indigenous customs and traditions and thereby protect their cultural heritage. It was found, however, that those who were able to complete the training did not wish to return to their original tribe to play such a role.

132. The representative stated that workers from the indigenous groups were not subject to any discrimination on the job and were paid according to the same pay scale as other citizens of Panama. The Government of Panama had taken the position that the ILO indigenous and Tribal Populations Convention, 1957 (Convention No. 107), under which the hiring of indigenous workers must be authorized by the Minister of Labour, risked being counter-productive since it created an impediment to employment.

#### Concluding observations

133. The Committee noted that the reports of Panama had been presented against the background of the extraordinary circumstances in the country resulting from political turmoil and the aftermath of the invasion by the United States of America. This had created great disorder in all sectors throughout the country with serious consequences for the enjoyment of economic, social and cultural rights. Against this background, it was gratifying that the Government of Panama had been prepared to establish a dialogue with the Committee and its appearance had enabled the Committee to acquire a clearer appreciation of the situation in that country.

134. The reports submitted by Panama were too general legalistic in nature and placed too much emphasis upon a recital of legislative decrees rather than details of the practical measures taken for the implementation of the Covenant. The Committee welcomed the further elaborations given by the representatives of Panama in their oral presentations but noted that a number of questions raised by the pre-sessional working group had remained unanswered.

135. Several detailed questions had been asked concerning both housing rights and evictions to which the responses provided by the delegation of Panama were viewed by the Committee as unsatisfactory for the following reasons:

(a) First, the Government's claim that 3,000 persons had been affected by the bombing of El-Chorillo differed substantially from all other sources available on this issue, which placed the figure between 12,500 and 20,000 persons. The absence of reliable census figures as to population of El Chorillo prior to the bombing of the community could be a reason for the disparity in estimates. The



Committee viewed with alarm the disparity in persons affected in view of the obligations incumbent upon the Government under the Covenant;

(b) Secondly, the responses given to questions concerning the current living conditions of residents of El Chorillo made homeless by the bombing differed substantially from other information available to the Committee. The Committee had received information which pointed to many complaints by the residents that had received alternative accommodation and which concerned the long distance which now had to be travelled to and from places of employment on relatively expensive public transportation and the overall poor quality of the housing in the resettlement sites. Moreover, two years after the invasion, a large number of persons had yet to be rehoused;

(c) Thirdly, the justification for the actions carried out by the Panamanian and United States forces in Tocumen, San Miguelito and Panama Viejo in early 1990, which affected over 5,000 persons, was unacceptable under the terms of the Covenant as a ground for forcibly removing people from their homes. During the actions concerned, a large number of houses were demolished, in spite of the affected persons having lived in the area for more than two years. Additionally, these evictions had not been accompanied by legal eviction orders. The Committee was of the view that evictions carried out in this way not only infringed upon the right to adequate housing but also on the inhabitants' rights to privacy and security of the home.

136. The Committee noted that the indigenous peoples were among the most disadvantaged in the society and that the rate of illiteracy among them was quite high despite the provisions for compulsory education. In this regard, note was taken of the fact that the indigenous population lived on reservations, often in remote areas, and was determined to maintain their traditions, customs and laws.

137. The situation relating to the reported high incidence of drug abuse and drug trafficking especially among young people was raised. Note was taken of information provided that there was an alarmingly high rate of involvement of foreigners in that activity.

138. The view was expressed that the restrictions placed on the participation of foreigners in the executive committees of trade unions were not in conformity with article 8 of the Covenant.

139. Concern was also expressed regarding the unequal distribution of household income in Panama, and the Government of Panama was requested to indicate what measures had been taken to address this situation.

Chapter VI

**CONSIDERATION OF ADDITIONAL INFORMATION SUBMITTED BY STATES PARTIES  
PURSUANT TO THE COMMITTEE'S REQUEST**

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197. At its 16<sup>th</sup> and 23<sup>rd</sup> meetings, the Committee considered additional information submitted by the Government of Panama subsequent to the consideration by the Committee, at its sixth session, in 1991, of the initial reports of Panama concerning rights covered by article 6 to 9 (E/1984/6/Add.19) and articles 13 to 15 (E/1988/5/Add.9), of the second periodic report concerning rights covered by articles 10 to 12 (E/1986/4/Add. 22) and of the supplementary information updating the above-mentioned reports (E/1989/5/Add.5). The Committee also considered the relevant recommendations of its pre-sessional working group and adopted the following conclusions:

“General observations

1. The Committee expresses its appreciation to the Government of Panama for having responded quickly and thoroughly to its request for additional information. As to the information itself, it refers more to the legal norms than to their practical application. Despite the supplementary explanations given by the Government representatives, several questions remain unanswered, in particular those relating to labour rights and the right to housing.
2. Frequent references are made to plans and projects but no particulars are given as to their progress.
3. Some members of the Committee expressed the view that the reconstruction policy of the Panamanian Government is neglecting the economic, social and cultural rights of workers.

Article 6: Right to work

4. No mention is made of any inspection activities for the enforcement of labour legislation.
5. No precise answer has been given to the questions put by the ILO representative relating to forced and compulsory labour in the Canal Zone.
6. The privatization policy for the public sector has left the question of dismissal of workers to the arbitrary discretion of the new owners.
7. The remedies provided for in the Labour Code against arbitrary dismissal do not apply when political grounds are invoked.

8. No information is given on underemployment and the information on unemployment is incomplete since it refers only to urban areas.

9. No information is given on the situation of those still unemployed after the period of 3 or 12 months from dismissal or loss of employment which is covered by social security.

#### Article 7: Right to just and favourable conditions of work

10. No mention is made of any labour inspection activities relating to working conditions. The representative of Panama offered to give the relevant information but this is not to be found in the list of annexes.

#### Article 8: Trade union rights

11. There are no figures for the number of trade union members.

12. No indication is given of the requirements (other than age) for trade union membership.

13. There is a contradiction in stating, on the one hand, that membership in a trade union is not compulsory and, on the other, that compulsory membership (a “legacy of the former regime”) constitutes a violation of trade union freedoms and that an effort will be made to abolish it.

14. The restrictions imposed on the participation of aliens in the executive committees of trade unions are in conflict with the provisions of the Covenant.

15. No information is given on the restrictions placed upon the rights of trade unions.

16. There is no information on the outcome of the persecution of trade union leaders or on the restrictions which prevent the free operation of unions.

17. No statistics are furnished for the past three years on the number of strikes, the numbers of workers affected, etc. for each branch of economic activity.

18. There is no genuine right of civil servants to have recourse to strike action in practice.

19. There is continued failure to supply the report requested by ILO concerning the rights of indigenous persons within the framework of article 8.

#### Article 9: Right to social security

20. No data have been furnished on disbursements by the Social Security Fund for the past two years.

21. Panama has informed ILO that it has had difficulties in providing social assistance and in introducing certain necessary social security measures. No further information has been received by

ILO regarding the legislative amendments which the Panamanian Government proposes to introduce in this matter.

22. No indication is given of standards for determining pension benefits.

Article 10: Protection of the family, mothers and children

23. There are no statistics on working mothers.

24. No information is given concerning maternity protection for non-unionized women, unmarried women or widows.

25. There are no statistics on children cared for by State services.

26. No particulars are given on the fate of the institutions for the protection of minors which were destroyed in the bombing.

27. There are no statistics on children with no family.

28. There is no explanation concerning the source of the high figure for drug addiction among young people (60 per cent).

29. The information on the work permits granted to minors appears disproportionately low compared with the large number of children who actually work (20,000).

Article 11: Right to an adequate standard of living

30. The 1987 report contains little information on the right to adequate food and clothing.

31. The report which deals with this article dates from 1987 and the additional report submitted in December 1991 does not refer to the contents of the article. The Panamanian Government has submitted a large number of certificates issued by mayors stating that there have been no evictions or burning-down of homes. Nevertheless, the certificates do not appear adequate to rebut the complaints of violations of the right to housing made by non-governmental organizations of acknowledged reliability.

32. On the basis of the oral explanations given on housing construction and reconstruction, it would appear that, two years after the United States invasion, the results of the plans and projects have been patently inadequate.

33. No information is given on the procedure for distributing the compensation given by the United States Government.

34. There is no information on the situation regarding housing in rural areas.

35. There is no information on the indigenous population.

Article 12: Right to physical and mental health

36. No information is given on environmental hygiene or pollution; although Panama has no heavy industry, there are other polluting agents.

37. It is stated that in Panama the number of persons contaminated with acquired immunodeficiency syndrome (AIDS) has decreased but no explanation is given for the reasons for this trend, which differs from the pattern of this disease elsewhere in the world.

38. The most recent statistics date from March 1987. They are mentioned in the annexes but they have not been received.

39. No information is given on the present number of hospitals or on the vaccination of children, and the statistics relating to doctors are incomplete.

Articles 13 and 14: Right to education

40. The statistics contained in the report to the Economic and Social Council are not recent; most of them date from 1988 and some even from 1980.

41. The figures on illiteracy date from 1980.

42. The presentation of the statistics on the student population does not make it possible to ascertain the percentages or the sectors of coverage.

Article 15: Right to take part in cultural life and to enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

43. There are no data on the situation with regard to the mass media which were affected by restrictions and Government persecution following the United States invasion.

44. The fate of the museums and monuments damaged by the bombing is not known.”

198. The Committee took note of the fact that the delegation of Panama was not in a position to answer the questions which the supplementary report of Panama (E/1989/5/Add. 8) had indicated would be provided to the Committee at its seventh session.

199. The Committee subsequently decided, in accordance with the procedures for follow-up action adopted at its seventh session, to offer to send to Panama one or two of its members to advise the Government in relation to the matters identified in paragraph 135 of the report on its sixth session (E/1992/23). The Committee noted that the supplementary information provided by the State party had failed to clarify the issues.

200. The Committee requests the Secretary-General to inform the Government of Panama of its decision as soon as possible.

**CESCR E/1995/22**

211. At its 21<sup>st</sup> meeting on 17 May 1994, the Committee considered the information submitted by the Government of Panama in response to the requests made by the Committee at its seventh, eighth and ninth sessions and, at its 28<sup>th</sup> meeting on 20 May 1994, adopted the following decision.

212. The Committee expresses its appreciation to the Government of Panama for the detailed written replies to the issues identified by the Committee at its seventh session (E/1993/22, para. 197) and for its readiness and willingness to cooperate with the Committee.

213. The Committee notes with satisfaction that the Government of Panama has undertaken:

(1) To provide the Committee with more complete information on the issues identified by the Committee with respect to the right to housing, to be submitted before the eleventh session of the Committee (21 November-9 December 1994);

(2) That the information will be presented to the Committee by experts in the field of housing rights; and

(3) To respond in its written replies to the issues identified in the report on cases of forcible evictions between 1992 and April 1994, submitted to the Committee during its tenth session by the National Commission for Human Rights in Panama (CONADEHUPA) and brought to the attention of the Government of Panama through the specific comments and requests made by members of the Committee at that session.

214. The Committee notes the extensive written information provided to it by the Government of Panama on the final days of the tenth session.

215. The Committee decides to continue its dialogue with the State party with respect to its implementation of the right to housing in the light of all information available to it. For this purpose, the Committee decides to schedule consideration of the situation in Panama at its eleventh session, to permit it to adopt concluding observations.

## CESCR E/2002/22 (2001)

439. The Committee considered the second periodic report of Panama on the implementation of the Covenant (E/1990/6/Add.24) at its 36th meeting, held on 16 August 2001, and adopted, at its 50th and 51st meetings, held on 27 August 2001, the following concluding observations.

### A. Introduction

440. The Committee welcomes the second periodic report of the State party, but regrets that it was submitted after a four-year delay. The report was in general prepared in conformity with the Committee's guidelines, although insufficient information was provided on the implementation of articles 1 to 5 of the Covenant.

441. The Committee regrets the late submission of written responses to the list of issues (E/C.12/Q/PAN/1) sent in due time to the State party, as well as the absence of experts in the delegation that attended the examination of the report. These problems limited dramatically the opportunity for a constructive dialogue with the delegation.

### B. Positive aspects

442. The Committee notes with satisfaction the enactment of laws promoting equality between men and women, such as the adoption of Act No. 4 of 1999 on equal opportunities for women and the adoption of Act No. 38 of 2001 that changes the provisions of Act No. 27 of 1995 on domestic violence. The Committee welcomes the setting up of the National Women's Council and other women's offices in various ministries as well as the active participation of organizations of civil society in this process of legal reform.

443. The Committee notes with satisfaction the significant reductions in levels of child mortality and malnutrition, and steady improvement in other indicators of human development.

444. The Committee notes with appreciation the establishment by Act No. 10 of 1997, Act No. 69 of 1998 and Executive Decree No. 194 of 1999 of a territorial demarcation (comarca) for the Ngöbe-Buglé indigenous community, which the Committee had recommended as a result of its 1995 technical assistance mission to Panama.<sup>14/</sup>

445. The Committee notes with appreciation the State party's declaration of its support for the adoption of an optional protocol to the Covenant.

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<sup>14/</sup> See Official Records of the Economic and Social Council, 1996, Supplement No. 2 (E/1996/22-E/C.12/1995/18), annex V, sect. II.



### C. Factors and difficulties impeding the implementation of the Covenant

446. The Committee notes that economic and social underdevelopment in rural areas and inequality in access to productive resources, together with the dominant position held by the urban population in social programmes, are factors impeding government action aimed at implementing the Covenant.

### D. Principal subjects of concern

447. The Committee regrets that legislation aimed at the incorporation of the Covenant directly into Panama's domestic legal system has not been adopted and that as a result the Covenant cannot be invoked before the internal authorities.

448. The Committee regrets the lack of a national plan of action for human rights prepared in accordance with the Vienna Declaration and Programme of Action.<sup>10/</sup>

449. Notwithstanding the important number of legal instruments and other measures adopted by the State party to ensure gender equality, the Committee is concerned about the flagrant inequality of wages for equal work and about the significantly higher rates of unemployment among women.

450. Notwithstanding the absence of legal discrimination and the rights granted to indigenous communities by the Constitution, the Committee is deeply concerned about the persisting disadvantage faced in practice by members of indigenous communities in Panama, and in particular about the marked disparities in the levels of poverty and literacy and access to water, employment, health, education and other basic social services. The Committee is also concerned that the issue of land rights of indigenous peoples has not been resolved in many cases and that their land rights are threatened by mining and cattle ranching activities which have been undertaken with the approval of the State party and have resulted in the displacement of indigenous peoples from their traditional ancestral and agricultural lands.

451. The Committee is especially concerned that the minimum wage is not sufficient to provide for the basic needs of the worker's family, and that payment of that minimum wage is generally not respected in practice.

452. The Committee is concerned about the limited applicability of labour laws in the Colón Free Zone and the resulting limits on the protection of workers against dismissal or trade union activity. It is also concerned about high rates of unemployment in the surrounding area.

453. The Committee is concerned about the lack of a sufficient number of labour inspectors and the reported widespread use of "blank" contracts and temporary work contracts, which avoid the protection and benefits that the law requires for persons employed under longer-term contracts. It is also concerned about legislation setting excessively high requirements for the establishment of

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<sup>10/</sup> Adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993 (A/CONF. 157/24 (Part I), chap. III).

employer organizations and trade unions or their branches.

454. The Committee is concerned about the persistence of domestic violence and the inability of the State party to apply the existing legislation. It is also concerned about cases of sexual harassment and the high rate of murder suffered by women.

455. The Committee is deeply concerned about the persistent problem of child labour, especially in the rural areas, and that the minimum age for employment is under 12 years in agricultural and domestic services. The Committee is also concerned about the lack of effective measures taken to protect children against sexual violence and other forms of exploitation.

456. The Committee is concerned about the high incidence of poverty, especially in the rural areas. In this regard, the Committee is concerned about the State party's economic and social policies, which are strongly biased in favour of urban and higher income groups and which have reportedly resulted in resource misallocation and waste and ineffective social programmes for disadvantaged and marginalized groups.

457. The Committee is concerned about the reported lack of social housing and in particular about the many different programmes and initiatives that exist in the field of housing, which are not integrated into a coherent national strategy. The Committee is also concerned about the lack of information concerning the extent to which its recommendations in the report on its technical assistance mission to Panama in 1995 have been implemented, especially with regard to the need to take into account the opinions of those affected by forced evictions, in line with its General Comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant).

458. The Committee notes with concern that the significant progress achieved in reducing child mortality has not been accompanied by a similar reduction in the rate of maternal mortality, which remained stable between 1980 and 1997. The Committee is also concerned about respect for the rights of women with regard to reproductive and sexual health and in particular about the high rates of illegal abortion and early pregnancy.

459. The Committee considers that the growing number of HIV/AIDS cases registered during the last decade constitutes a serious health problem.

460. The Committee remains concerned about the low rates of literacy, especially among women.

461. The Committee is concerned about the inadequacy of resources allocated to address the problems of primary and secondary education.

462. The Committee regrets the absence of references in the second periodic report to action taken in response to the Committee's recommendations adopted upon the examination of the initial report of Panama.<sup>15</sup>

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<sup>15/</sup> Official Records of the Economic and Social Council, 1992, Supplement No. 3 (E/1992/23-E/C.12/1991/4), chap. V, paras. 95-139.

#### E. Suggestions and recommendations

463. The Committee urges the State party to ensure that the provisions of the Covenant are directly applicable in the domestic legal order, so that they can be invoked before the courts.

464. The Committee strongly recommends that a national plan of action for human rights be prepared, in accordance with the Vienna Declaration and Programme of Action. The Committee requests the State party to annex a copy of the national plan of action to its third periodic report to the Committee, and to explain in its report how the plan promotes and protects economic, social and cultural rights.

465. The Committee requests the State party to provide, in its third periodic report, detailed information about any government policies, programmes and measures adopted to assist in the effective implementation of the legislation on equality between women and men.

466. The Committee reiterates its recommendation encouraging the State party to consider ratifying ILO Convention No. 169 (1989) concerning indigenous and tribal peoples in independent countries. It urges the State party to pay particular attention to improving poverty and literacy rates and access to water, employment, health, education and other basic social services for indigenous peoples. The Committee recommends that the issue of land rights of indigenous peoples be fully resolved so as to avoid their coming under threat by mining and cattle ranching activities that result in their displacement from their traditional ancestral and agricultural lands.

467. The Committee encourages the State party to take action to lower the requirements for the setting up of employer organizations or trade unions and their branches.

468. The Committee recommends that the State party take effective measures to combat the high rates of unemployment, in particular for women and in the area surrounding the Colón Free Zone. It also recommends that the limited applicability of labour laws in that free trade zone be reviewed.

469. The Committee encourages the State party to act on its stated commitment to develop effective programmes and policies to combat poverty and to achieve the goal of reducing the poverty rate from 37 per cent to 30 per cent of the population by 2003. In this regard, the Committee urges the State party to address the persistent problem of dramatic income inequality. The Committee also urges the State party to review its various initiatives designed to help reduce the high rate of poverty to ensure that they fully integrate human rights, including economic, social and cultural rights, in the light of the Committee's Statement on poverty and the International Covenant on Economic, Social and Cultural Rights adopted by the Committee on 4 May 2001 (see annex VII below).

470. The Committee urges the State party to ensure that the minimum wage is increased regularly with reference to the cost of living so as to guarantee increasingly an adequate standard of living to workers and their families, and to ensure that the rules regarding the minimum wage are respected in practice.

471. With regard to Act No. 38 of 2001 on domestic violence, the Committee strongly recommends that the State party take effective measures to disseminate and implement vigorously existing legislation on domestic violence, that police and other law enforcement officials be given better training to this end, and that information be provided in the third periodic report on the number and outcome of court cases related to domestic violence.

472. The Committee urges the State party to take all necessary measures, legislative or otherwise, to address the persistent problem of child labour, especially in agriculture and domestic services. In this regard, the Committee urges the State party to consider ratifying ILO Convention No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour. The Committee also calls upon the State party to take remedial action to protect children against sexual abuse and all forms of exploitation.

473. The Committee recommends that the State party collect comprehensive data and establish a coherent national strategy on housing, especially social housing. In this regard, the Committee urges the State party to take all appropriate measures in order to ensure the availability of affordable housing units, especially for the low-income, disadvantaged and marginalized groups

474. The Committee requests the State party to provide detailed information in its third periodic report about the number and nature of forced evictions, in accordance with the Committee's General Comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant). It requests that information be provided on the implementation of recommendations formulated by the Committee as a result of its 1995 technical assistance mission to Panama.

475. The Committee calls upon the State party to take urgent measures aimed at reducing the excessively high maternal mortality rate, and to expand the availability and accessibility of reproductive and sexual health information and services, so as to encourage a reduction in the rates of illegal abortion and early pregnancy.

476. The Committee requests the State party to provide, in its third periodic report, detailed information on the number of persons living with HIV/AIDS and on the measures taken for the prevention, treatment and care of those infected, affected, or particularly vulnerable.

477. The Committee encourages the State party to refer, for its third periodic report, to its General Comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant) - especially paragraphs 43 and 44 on core obligations, and 57 and 58 on indicators and benchmarks - for assistance on how to report on its implementation of article 12 of the Covenant. The Committee requests the State party to provide detailed information in its third periodic report on the cost, affordability and availability - particularly in rural areas and for marginalized groups - of the expanded provision of outpatient and home-care services that have reportedly accompanied the reduction in the number of beds available for hospital-based psychiatric treatment.

478. The Committee urges the State party to implement a comprehensive National Education For All Plan, as required by paragraph 16 of the Dakar Framework for Action adopted at the World Education Forum in April 2000, taking into account the Committee's General Comments No. 11

(1999) on plans of action for primary education (art. 14 of the Covenant) and No. 13 (1999) on the right to education (art. 13 of the Covenant), as well as General Comment No. 1 (2001) of the Committee on the Rights of the Child on the aims of education (art. 29, para. 1, of the Convention on the Rights of the Child). The Committee on Economic, Social and Cultural Rights recommends that the State party establish literacy programmes for adults, especially for indigenous peoples and in the rural areas. The Committee requests the State party also to provide in its third periodic report detailed information about the measures taken to increase the quality of and promote equal opportunity for all in education, including in vocational education. The Committee encourages the State party to consider ratifying the Convention against Discrimination in Education adopted by the General Conference of UNESCO in 1960.

479. The Committee requests the State party to take measures aimed at increasing the resources available to fight illiteracy and promote primary and secondary education, as well as to provide information in its third periodic report about the allocation of resources to different levels and types of education.

480. The Committee requests the State party to disseminate its concluding observations widely among all levels of society and to inform the Committee of all steps taken to implement them. It also encourages the State party to consult with non-governmental organizations and other members of civil society in the preparation of its third periodic report.

481. Finally, the Committee requests the State party to submit its third periodic report by 30 June 2004, and to include in the report detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.