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Commissioner for Human Rights in accordance with  
paragraph 15 (b) of the annex to Human Rights Council  
Resolution 5/1**

**Panama**

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

## I. Background and framework

### A. Scope of international obligations<sup>1</sup>

<i>Universal human rights treaties<sup>2</sup></i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	16 August 1976	None	Individual complaints (art. 14): No
ICESCR	8 March 1977	None	-
ICCPR	8 March 1977	None	Inter-State complaints (art. 41): No
ICCPR-OP 1	8 March 1977	None	-
ICCPR-OP 2	21 January 1993	None	-
CEDAW	29 October 1981	None	-
OP-CEDAW	9 May 2001	None	Inquiry procedure (arts. 8 and 9): Yes
CAT	24 August 1987	Reservation (Art. 1)	Inter-State complaints (art. 21): No Individual complaints (art. 22): No Inquiry procedure (art. 20): Yes
CRC	12 December 1990	None	-
OP-CRC-AC	8 August 2001	Binding declaration under art. 3: 18 years	-
OP-CRC-SC	9 February 2001	None	-
CRPD	7 August 2007	None	-
OP-CRPD	7 August 2007	None	Inquiry procedure (arts. 6 and 7): Yes

*Treaties to which Panamá is not a party: OP-ICESCR, OP-CAT, ICRMW, and CED (signature only, 2007).*

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	Yes
Rome Statute of the International Criminal Court	Yes
Palermo Protocol <sup>3</sup>	Yes
Refugees and stateless persons <sup>4</sup>	Yes, except 1954 Convention and its 1961 Protocol.
Geneva Conventions of 12 August 1949 and Additional Protocols thereto <sup>5</sup>	Yes, except Protocol III (signature only, 2006).
ILO fundamental conventions <sup>6</sup>	Yes
UNESCO Convention against Discrimination in Education	Yes

1. In 2010, the Committee on the Elimination of Discrimination against Women (CEDAW) encouraged Panama to ratify ICRMW and CED.<sup>7</sup>

2. También en 2010, el Comité para la Eliminación de la Discriminación Racial (CERD) urgió Panamá a considerar la ratificación del Convenio N.º 169 de la OIT sobre pueblos indígenas y tribales en países independientes.<sup>8</sup> Asimismo, el CERD alentó a Panamá que considere, inter alia, la posibilidad de hacer la declaración facultativa prevista en el artículo 14 de la Convención y que ratifique las enmiendas al párrafo 6 del artículo 8, de la Convención<sup>9</sup>.

3. The Human Rights Committee (HR Committee) noted with satisfaction the information provided by Panama that it was considering ratification of OP-CAT.<sup>10</sup>

4. El equipo de las Naciones Unidas en el país (UNCT) recomendó igualmente la ratificación de los Convenios arriba mencionados así como la Convención Iberoamericana de la Juventud.<sup>11</sup>

## **B. Constitutional and legislative framework**

5. In 2008, the HR Committee noted with satisfaction, inter alia, the adoption of a new penal code and the repeal of the contempt laws. It also welcomed 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.<sup>12</sup> It further welcomed the adoption of legislation that allows refugees who have been in the country for 10 years or more to request permanent residence.<sup>13</sup>

6. El UNCT observó que en 2008 se aprobó un nuevo Código Procesal Penal, mediante el cual se cambiaría del sistema inquisitivo vigente, a un nuevo sistema acusatorio de justicia. En agosto de 2009, un mes antes de la entrada en vigor del sistema acusatorio, el nuevo gobierno pospuso su implementación hasta 2011.<sup>14</sup>

7. CEDAW welcomed Law No. 4 of 1999 and the incorporation into domestic law of a definition of discrimination in line with the Convention.<sup>15</sup>

8. En 2010, el CERD estimó positivas la adopción de leyes para combatir la discriminación racial como la Ley 11 de 2005 sobre discriminación laboral, la Ley 16 de 2002 sobre el derecho de admisión a establecimientos públicos.<sup>16</sup> El CERD tomó nota igualmente de la Ley 72 de 2008 sobre Tierras Colectivas que contempla la posesión de tierras para comunidades indígenas que no se encuentran dentro de una comarca.<sup>17</sup>

9. El CERD, expresó asimismo su preocupación de que no exista una disposición que tipifique como delitos los actos de discriminación racial y reiteró su recomendación a Panamá de que apruebe una legislación penal específica de conformidad con el artículo 4 de la Convención.<sup>18</sup>

10. In 2008, the HR Committee noted with concern that, according to the Constitution, the State may deny a request for naturalization for reasons of physical or mental incapacity.<sup>19</sup>

## **C. Institutional and human rights infrastructure**

11. In 1999, the *Defensoría del Pueblo* (Ombudsman) was accredited with 'A' status by the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC), which was reconfirmed in 2006.<sup>20</sup>

12. In 2010, CEDAW commended the establishment of the National Institute for Women (INAMU) in 2009.<sup>21</sup>

13. En 2010, el CERD, dio la bienvenida al establecimiento por Panamá de la Defensoría del Pueblo, el Consejo Nacional de la Etnia Negra y de la Comisión Nacional para Atención a los Refugiados.<sup>22</sup>

14. El UNCT indicó que el funcionamiento de la Comisión Nacional contra la Discriminación, creada por la Ley 16 de 2002, no ha sido regular. Pocos fondos han sido destinados para atender los casos de discriminación racial o para dar apoyo legal a las víctimas.<sup>23</sup>

15. El UNCT indicó igualmente que en 2010 comenzó a operar una Dirección de Derechos Humanos en el Ministerio de Gobierno y Justicia. En 2008 se creó el Consejo Nacional para la Prevención y Control del VIH. También se han creado instituciones especializadas para la protección de los derechos de las personas con discapacidad (SENADIS) y la seguridad alimentaria (SENAPAN).<sup>24</sup>

## D. Policy measures

16. En 2010, el CERD saludó la información provista que Panamá tiene planificado celebrar un censo poblacional este año,<sup>25</sup> y pidió, que éste recoja, entre otras cosas, información sobre los pueblos indígenas y las personas afro-panameñas.<sup>26</sup>

17. In 2004, CRC noted with appreciation, inter alia, the adoption the National Plan of Action for Children and Adolescents (2003-2015).<sup>27</sup>

18. El UNCT resaltó acciones dirigidas a asegurar una mejor protección de los derechos humanos, entre ellas mencionó: el Plan de Seguridad Alimentaria y Nutricional 2009-2015; y el Programa de transferencias condicionadas, focalizado en las regiones de pobreza y pobreza extrema, denominado “Red de Oportunidades”.<sup>28</sup> Indicó igualmente que el impacto de las políticas desarrolladas se ha caracterizado en muchas ocasiones por la asignación de recursos económicos no siempre suficientes para su implementación y seguimiento y que Panamá no cuenta con un plan nacional integral de derechos humanos.<sup>29</sup>

19. In 2010, the ILO Committee of Experts requested Panama to provide information on the measures taken under the National Plan of Action for the Full Inclusion of Ethnic Blacks to promote equality of opportunity and treatment of the Afro-Panamanian population in employment and occupation.<sup>30</sup>

## II. Promotion and protection of human rights on the ground

### A. Cooperation with human rights mechanisms

#### 1. Cooperation with treaty bodies

<i>Treaty body<sup>31</sup></i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	2009	March 2010	Due in 2011	21 <sup>st</sup> to 23 <sup>rd</sup> reports due 2013
CESCR	1999	August 2001		- 3 <sup>rd</sup> report overdue since 2004
HR Committee	2007	April 2008	Overdue since 2009	4 <sup>th</sup> report due 2012
CEDAW	2008	February 2010	Due in 2012	8 <sup>th</sup> report due in 2014

CAT	1997	May 1998	4 <sup>th</sup> report overdue since 2000
CRC	2002	June 2004	- 3 <sup>rd</sup> and 4 <sup>th</sup> reports received 2009
OP-CRC-AC	-	-	- Initial report overdue since 2003
OP-CRC-SC	-	-	- Initial report overdue since 2003

20. En 2010, el CERD invitó a Panamá a respetar en el futuro los plazos establecidos para la presentación de sus informes. Asimismo, le exhortó a involucrar en la elaboración del informe y en su implementación a miembros de la sociedad civil<sup>32</sup>.

## 2. Cooperation with special procedures

<i>Standing invitation issued</i>	No
<i>Latest visits or mission reports</i>	Special Rapporteur on mercenaries (2002) <sup>33</sup> Special Rapporteur on indigenous peoples (Special visit on the situation of the Charco la Pava community in 2009) <sup>34</sup>
<i>Visits agreed upon in principle</i>	
<i>Visits requested and not yet agreed upon</i>	Independent expert on minorities (2007)
<i>Facilitation/cooperation during missions</i>	
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 8 communications were sent. The Government replied to 3 communications.
<i>Responses to questionnaires on thematic issues</i>	Panama responded to 4 of the 23 questionnaires sent by special procedures mandate holders, <sup>35</sup> within the deadlines.

## 3. Cooperation with the Office of the High Commissioner for Human Rights

21. The OHCHR Regional Office for Central America, based in Panama City, was established in August 2007.<sup>36</sup> The Regional Office has organized several capacity-building activities for the Government, Ombudsman (*Defensoría del Pueblo*) and civil society, including on treaty-body reporting and follow-up and<sup>37</sup> human rights in the context of migration.<sup>38</sup> In 2009, Panamá hosted several OHCHR regional activities, including on the UPR,<sup>39</sup> rights of indigenous peoples, role of parliamentarians in the protection of human rights in Latin America.<sup>40</sup> The Regional Office facilitated the mission to Panama of the Special Rapporteur on the rights and fundamental freedoms of indigenous peoples.<sup>41</sup>

22. Former High Commissioner Louise Arbour undertook an official mission to Panama in 2007.<sup>42</sup>

23. Panamá contributed financially to OHCHR on an annual basis from 2002 to 2009 (except for 2004).<sup>43</sup>

## **B. Implementation of international human rights obligations**

### **1. Equality and non-discrimination**

24. In 2010, CEDAW reiterated its concern about the persistence of traditional stereotypes regarding the roles and responsibilities of women and men in the family and in society at large.<sup>44</sup>

25. El UNCT observó que la estigmatización y los estereotipos racistas están todavía presentes en los medios y en los discursos oficiales.<sup>45</sup> En 2010, el CERD expresó preocupaciones similares.<sup>46</sup>

26. El CERD expresó, igualmente, su preocupación por el hecho de que en la práctica los afro-panameños y pueblos indígenas siguen teniendo grandes dificultades para disfrutar de sus derechos, siendo víctimas de una discriminación racial *de facto* y de marginación, y particularmente siendo vulnerables a violaciones de derechos humanos. También preocupó al Comité las causas estructurales que perpetúan la discriminación y la exclusión del acceso a los derechos socioeconómicos y al desarrollo. Subrayó la importancia de celebrar consultas con los pueblos indígenas y las personas afro-panameñas correspondientes en la elaboración de los pertinentes planes de desarrollo y medidas especiales.<sup>47</sup>

### **2 Right to life, liberty and security of the person**

27. In 2010, CEDAW was concerned that femicide has not been sufficiently addressed in criminal and other laws and that there is no reliable data on this phenomenon.<sup>48</sup> It urged Panama to take all necessary measures to address femicide in the criminal code and other relevant laws within a clear timeframe.<sup>49</sup>

28. El UNCT observó, con relación al feminicidio, que en el 2008 se reportaron 46 mujeres asesinadas y en el 2009 se reportaron 80.<sup>50</sup>

29. In 2010, while welcoming the recent approval of modifications to the Criminal Code and the Criminal Procedure Code relating to domestic violence by the incorporation of new protective measures,<sup>51</sup> CEDAW urged Panama, inter alia, to strengthen its efforts and to effectively implement existing legislative measures.<sup>52</sup> In 2008, the HR Committee welcomed the existence of a law against domestic violence and the measures taken to ensure its application. Nonetheless, it was concerned about the high incidence of domestic violence and the numerous deaths it causes.<sup>53</sup>

30. Additionally, CEDAW noted with concern that girls were not protected from corporal punishment and abuse as forms of disciplinary measures.<sup>54</sup> In line with the recommendations of CRC, CEDAW urged Panama to include in its legislation the prohibition of all forms of corporal punishment of children.<sup>55</sup>

31. El UNCT indicó de que de acuerdo a las estadísticas oficiales, al 1 de marzo de 2010, la población penitenciaria ascendía a 10.386 mientras que la capacidad de los centros penales es de 7.145.<sup>56</sup> Asimismo, no se cumple con la separación entre condenados y sentenciados, ni con una debida clasificación de las personas privadas de libertad.<sup>57</sup>

32. In 2008, the HR Committee noted with concern that abusive treatment of prisoners by law enforcement officers still persisted, especially in prisons but also at the time of arrest by the police, in most cases without such conduct being punished.<sup>58</sup> Additionally, the HR Committee was concerned about the high levels of overcrowding and poor prison conditions, especially unsanitary conditions, lack of safe drinking water, scarce medical care, as well as shortage of staff and absence of separation between accused and convicted persons.<sup>59</sup>

33. In 2010, CEDAW noted with concern the large number of trafficked women and girls, and the very low number of perpetrators prosecuted and punished. It was further concerned about the non-comprehensive nature of the new legal framework and its implementation.<sup>60</sup>

34. In 2010, the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts) observed that, while national legislation contains provisions for punishing sexual exploitation and trafficking in persons for the purpose of sexual exploitation, it does not seem to contain provisions for punishing trafficking in persons for the purpose of labour exploitation.<sup>61</sup>

35. The HR Committee noted with concern that although the Constitution prohibits work under the age of 14, including domestic work, and despite legislative measures to prohibit the worst forms of child labour, child labour still persisted.<sup>62</sup>

### **3. Administration of justice and the rule of law**

36. El UNCT consideró que la inexistencia de una ley de carrera judicial, hace posible que el sistema de nombramiento de los jueces por parte de los superiores jerárquicos sea en su mayoría discrecional.<sup>63</sup>

37. El UNCT observó igualmente que a nivel local, los Alcaldes designan a los Corregidores, quienes tienen competencia para conocer de casos administrativos, civiles menores y penales, con capacidad para la imposición de arrestos, fianzas o privaciones de libertad que no superen un año. En la actualidad, la falta de una legislación que exija entrenamiento legal de los Corregidores muchas veces genera situaciones de posible violación al debido proceso.<sup>64</sup>

38. In 2008, the HR Committee expressed concern at the delays in processing applications for *habeas corpus*, and the limited number of officially appointed counsels. It considered that Panama should take measures to increase the number of counsels with a view to guaranteeing the right to defense for all citizens.<sup>65</sup>

39. El UNCT observó que la ley prohíbe la detención bajo investigación por más de 48 horas sin orden judicial, sin embargo, permite la detención de menores de 18 años por 72 horas bajo este procedimiento. Observó asimismo, que se han denunciado casos de detenciones sin una orden judicial que las sustente, así como, casos de incumplimiento del deber de informar inmediatamente al detenido de las razones de su arresto o detención y su derecho a un abogado.<sup>66</sup>

40. El UNCT observó que más del 60% de la población carcelaria son presos sin condena, ello se debe principalmente al uso generalizado de la detención preventiva y de la mora judicial. Los tiempos de detención preventiva en algunos casos exceden los de las sentencias máximas para el delito cometido.<sup>67</sup>

41. Asimismo, el UNCT indicó que desde 1999, Panamá ha legislado para establecer una jurisdicción penal especializada para adolescentes. En el 2007, la Ley 40 de 1999, que creó este régimen especial de responsabilidad penal fue reformado para aumentar la pena máxima de prisión de 7 a 12 años. En marzo del 2010, la Ley 6, rebajó la edad mínima de responsabilidad penal de 14 a 12 años.<sup>68</sup>

### **4. Right to privacy, marriage and family life**

42. In 2010, CEDAW regretted that Panama has not yet modified the very low minimum age for marriage, which is set at 14 for girls, and 16 for boys.<sup>69</sup> CRC had expressed similar concerns in 2004.<sup>70</sup>

43. In 2004, CRC was also concerned about the difficult access to birth registration procedures, particularly for children of African descent, indigenous children and those living in rural areas and border areas.<sup>71</sup>

44. CRC urged Panama to develop and implement a comprehensive policy to protect children's rights, including, inter alia, measures to strengthen the competence of parents, with particular attention to poor families and female-headed households, increase fathers' awareness of their responsibilities, and ensure that they provide necessary financial support, and ensure that children in institutions enjoy the rights enshrined in the Convention.<sup>72</sup>

## **5. Freedom of movement**

45. El UNCT resaltó que las personas bajo el Estatuto Humanitario Provisional de Protección (PTH), quienes residen en áreas remotas fronterizas y llevan más de 10 años bajo este régimen de protección "temporal", tienen restringida su libertad de movimiento. Recomendó la creación de un mecanismo legal que contemple la obtención progresiva de derechos.<sup>73</sup>

## **6. Freedom of expression, association and peaceful assembly, and right to participate in public and political life**

46. Al CERD le preocupan las informaciones recibidas sobre intimidaciones y persecución por actividades reivindicativas para proteger los derechos indígenas por parte de comunidades y líderes indígenas, específicamente con oposición a mega proyectos económicos relacionados con hidroeléctricas, minería o grandes obras, así como proyectos turísticos. Instó a Panamá a intensificar las medidas destinadas a proteger la seguridad de los líderes y comunidades indígenas y a este respecto preste particular atención a las medidas cautelares ordenadas por el sistema interamericano de derechos humanos.<sup>74</sup>

47. While welcoming the amendment to the Electoral Code in 1997 which, inter alia, established that 30 per cent of elective positions be held by women, CEDAW was concerned that the steps required to ensure that political parties comply with this minimum requirement have not been implemented. It was also concerned at the apparent lack of awareness and interest among political parties to include more women.<sup>75</sup> It suggested that Panama, inter alia, carry out awareness-raising campaigns on the importance of women's participation in decision-making.<sup>76</sup> The HR Committee expressed similar concerns.<sup>77</sup>

48. El UNCT indicó en cuanto al financiamiento público electoral que la norma que ordena destinar el 10% a capacitaciones para motivar la participación de mujeres no ha sido aplicada. El número de mujeres elegidas a cargos públicos disminuyó en el último torneo electoral.<sup>78</sup>

49. In 2010, the ILO Committee of Experts noted a communication regarding the risk of public servants being dismissed because of their political opinion. Further referring to a previous communication regarding the alleged dismissal of more than 19,000 public servants without just cause and without following the procedures established by law, the ILO Committee of Experts expressed the hope that Panama would make every effort to prevent the recurrence of similar cases, and requested it to continue its efforts to solve cases which are pending.<sup>79</sup>

## **7. Right to work and to just and favourable conditions of work**

50. The ILO Committee of Experts referred to its previous comments in which it had asked Panama to amend section 10 of the Labour Code, which is limited to guaranteeing equal remuneration for "equal work," in order to give full legislative expression to the concept of equal remuneration for men and women for "work of equal value," as provided for under the Equal Remuneration Convention (No. 100). The ILO Committee of Experts



noted the difficulties which Panama still encountered in applying the Convention, as reflected in a significant and persistent wage gap between men and women.<sup>80</sup> Also in 2010, the Committee noted that 64 per cent of economically active women are engaged in low-income activities, and urged Panama to take appropriate steps to reduce the wage gap between men and women.<sup>81</sup>

51. CEDAW also expressed similar concerns in 2010 and noted with concern that the legal protection of pregnant workers and those facing sexual harassment is inadequate. Concerned at the high level of child labour among girls,<sup>82</sup> CEDAW called on Panama to, inter alia, enact legislation and measures to ensure the principle of “equal pay for work of equal value.”<sup>83</sup> In 2009, the HR Committee expressed similar concerns and suggested that Panama should ensure, inter alia, equal pay for equal work and the abolition of pregnancy tests as a requirement for access to employment.<sup>84</sup>

52. The ILO Committee of Experts noted that, according to the fourth national report on the situation of women in Panama (2002-07), the situation of indigenous women is serious, since their low level of education on average prevents them from accessing activities which generate sufficient income for a decent standard of living. It requested Panama to take the necessary measures to address this situation.<sup>85</sup>

53. In 2009, the ILO Committee of Experts noted that Act No. 44 amending the Labour Code requires too large a membership for the establishment of an employers’ organization and an even greater membership for the establishment of a workers’ organization at the enterprise level. It noted the high number of public servants required to establish an organization under the Act on Administrative careers. The ILO Committee of Experts requested Panama to take the necessary steps to amend its legislation.<sup>86</sup> CESCR had expressed similar concerns in 2001.<sup>87</sup>

54. In 2004, CRC recommended that Panama ensure full implementation of child labour provisions and take all necessary measures to prevent child labour in both rural and urban areas (including child domestic workers).<sup>88</sup>

## **8. Right to social security and to an adequate standard of living**

55. El UNDAF enfatizó en 2006 que los problemas más acuciantes de la sociedad panameña son la pobreza, la inequidad y la exclusión. Agregó que el análisis de la pobreza por área geográfica indica que la población indígena es la más excluida.<sup>89</sup> UNCT señaló que a pesar de los avances económicos, los indicadores nutricionales manifiestan que el hambre en el país persiste así como la inseguridad alimentaria, afectando desproporcionadamente a zonas rurales e indígenas.<sup>90</sup>

56. In 2004, CRC strongly recommended that Panama continue to strengthen its efforts in health reform, in particular with regard to primary health care, and ensure accessibility of quality health care in all areas of the country, including through far-reaching programmes, training local villagers in safe midwifery, and providing adequate prenatal care.<sup>91</sup>

57. El UNDAF indicó que la tasa de mortalidad materna mostró un descenso de la década del 50 a la década del 80, pero que sin embargo, desde entonces no se aprecian cambios positivos, e incluso la línea de tendencia muestra un leve aumento. La tasa de mortalidad materna es cuatro veces superior a la mediana del país en la comarca Ngöbe Buglé y siete veces mayor en Kuna Yala.<sup>92</sup>

58. In 2010, CEDAW noted with concern the high rate of maternal mortality due mainly to the lack of appropriate medical care, particularly for rural and indigenous women and adolescent girls. It was further concerned at the difficulties women encountered to obtain a legal abortion.<sup>93</sup> It urged Panama to, inter alia, facilitate dialogue on women’s right to reproductive health, including the consequences of restrictive abortion laws.<sup>94</sup> In 2008, the

HR Committee expressed concern at the restrictive legislation on abortion in the Criminal Code, in particular the limitation that abortion 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 documented in court proceedings.<sup>95</sup>

59. CEDAW was additionally concerned at the insufficient recognition and protection of women's sexual health and reproductive rights, in particular with regard to the delay in the debate over Draft Law No. 442 on Sexual and Reproductive Health.<sup>96</sup> It urged Panama to take the necessary steps to overcome the stalemate surrounding the draft law and to promulgate it as soon as possible.<sup>97</sup>

60. Regarding HIV/AIDS, CEDAW called on Panama to address the power differential between women and men, which often prevents women from insisting on safe and responsible sex practices.<sup>98</sup>

61. El CERD, en 2010, señaló igualmente con preocupación los niveles de infección de VIH/SIDA en la comunidad indígena Kuna y en este sentido, también notó con preocupación el escaso acceso a servicios de salud sexual y reproductiva para los pueblos indígenas y las personas afro-panameñas.<sup>99</sup>

## **9. Right to education**

62. El UNCT observó que el Estado reconoce nueve años de educación básica de carácter obligatorio y gratuito y que el porcentaje de matrícula a este nivel es de 98%. En el nivel de la educación media (primordialmente dirigida a la población de 15 a 18 años de edad), la tasa de matrícula es de un 60 %, con niveles significativos de abandono escolar.<sup>100</sup>

63. In 2010, CEDAW urged Panama to take measures, including studies, to address the root causes of gender discrimination and stereotypical gender roles in the field of education, and strengthen efforts to promote the inclusion of women in non-traditional careers.<sup>101</sup>

64. CEDAW was concerned at the large number of girls who drop out of school due to early pregnancies and regretted that although there is legal provision (Law No. 29) mandating continuation of education for girls during and after pregnancy, there is no effective mechanism in place to ensure compliance.<sup>102</sup> It also noted with concern the high level of illiteracy among rural women who speak indigenous languages.<sup>103</sup>

65. In 2004, CRC was concerned about identity preservation of indigenous children, since bilingual education remains a challenge in indigenous areas, and general education lacks resources.<sup>104</sup> It recommended that Panama pay particular attention to guarantee the preservation of the identity of indigenous and Afro-Panamanian children by, inter alia, the implementation of a national plan to develop bilingual intercultural education.<sup>105</sup>

66. CRC also recommended that Panama pay special attention to the educational needs of vulnerable children, for example, girls, indigenous and refugee children, working and street children, in order to fulfil their basic right to education, by upgrading the infrastructure of the educational system and offering more facilities for non-formal learning and vocational training, including for children who have not completed primary and secondary education.<sup>106</sup>

## **10. Minorities and indigenous peoples**

67. El CERD en 2010, recomendó que Panamá finalice los procesos pendientes para asegurar que todas las comunidades indígenas panameñas sean reconocidas con una comarca o un estatus similar.<sup>107</sup>

68. In 2008, the HR Committee expressed concern at the many problems affecting indigenous communities, including serious shortcomings in health and education services

and non-recognition of the special status of indigenous communities that do not reside within a *comarca* (specially designated area).<sup>108</sup>

69. El UNCT indicó que el derecho a la consulta con miras a obtener el consentimiento previo, libre e informado de las poblaciones afectadas por proyectos de explotación minera, hidroeléctrica y turística no está garantizado ni regulado. La ley del medio ambiente sólo exige como requisito previo para otorgar una concesión de exploración o explotación de recursos naturales un estudio de impacto ambiental.<sup>109</sup>

70. El CERD tomó nota, con preocupación, que en varias oportunidades las consultas pertinentes sobre proyectos de explotación de recursos, construcción y turismo se han dejado en manos de las empresas privadas que llevarán a cabo los proyectos. Recomendó que Panamá instaure mecanismos adecuados, de conformidad con estándares internacionales, incluyendo el artículo 5 de la Convención N.º 107 de la OIT, ratificada por Panamá, para llevar a cabo consultas con las comunidades que puedan verse afectadas por proyectos de desarrollo y explotación de recursos naturales con el objetivo de obtener su consentimiento libre, previo e informado.<sup>110</sup>

71. El CERD recomendó asimismo que resarcimiento y compensación efectivos sean provistos a las personas enfrentando un desplazamiento para poder llevar a cabo proyectos económicos y que, Panamá vele porque las personas desplazadas reciban una indemnización adecuada y asegure lugares para la reubicación dotados de servicios básicos.<sup>111</sup>

72. En 2009, el Relator Especial sobre los derechos humanos de los pueblos indígenas, tras una visita al país, publicó un informe sobre la situación de la Comunidad Charco La Pava y otras comunidades afectadas por el Proyecto Hidroeléctrico Chan 75. En su informe, el Relator Especial concluyó, *inter alia*, que las comunidades afectadas no habían sido consultadas adecuadamente y con carácter previo a la decisión de aprobar el proyecto por parte del Estado y que las comunidades afectadas no tuvieron la oportunidad de otorgar su consentimiento en relación con su reasentamiento.<sup>112</sup> Panamá proporcionó una respuesta detallada al informe donde, *inter alia*, sostiene que no existen violaciones de derechos humanos y que tanto el caudal probatorio como el propio informe reconocen que no hubo falta de consulta previa.<sup>113</sup>

73. El CERD tomó nota con seria preocupación que el caso de Charco La Pava fue motivo de una carta por parte del CERD, en 2008, bajo el mecanismo de Alerta Temprana y de una visita del Relator Especial sobre los derechos humanos de los indígenas en 2009 y urgió a Panamá prestar cuidadosa atención a las declaraciones y decisiones de cuerpos regionales e internacionales sobre el tema.<sup>114</sup>

## 11. Migrants, refugees and asylum-seekers

74. El UNCT observó que la falta de mecanismos eficientes que permitan la identificación de personas en necesidad de protección internacional dentro de los flujos migratorios mixtos coloca a las personas sujetas a protección en una situación de vulnerabilidad. Se observan faltas al debido proceso de solicitud de refugio y al cumplimiento de los principios básicos de la protección internacional como son: el derecho de asilo (acceso al procedimiento), *non refoulement* (no devolución y no rechazo en frontera), la no sanción por ingreso ilegal o irregular (detenciones arbitrarias) y la no discriminación. Existen problemas en cuanto al acceso efectivo a derechos, más que nada relacionados a la falta de una documentación oportuna, (incluyendo permisos de trabajo).<sup>115</sup>

### III. Achievements, best practices, challenges and constraints

N/A

### IV. Key national priorities, initiatives and commitments

#### Specific recommendations for follow-up

75. CEDAW requested Panama to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 13 (legal measures to guarantee gender equality) and 41 (sexual and reproductive health). It also requested Panama to consider seeking technical cooperation and assistance, including advisory services, if necessary and when appropriate, for implementing the above recommendations.<sup>116</sup>

76. In accordance with rule 71, paragraph 5 of the HR Committee's rules of procedure, Panama should submit, within one year, information on the follow-up given to the Committee's recommendations in paragraphs 11 (prison conditions), 14 (refugees) and 18 (domestic violence).<sup>117</sup>

### V. Capacity-building and technical assistance

77. CRC recommended that Panama request technical assistance in the areas of juvenile justice and police training from, among others, UNICEF,<sup>118</sup> and combating HIV/AIDS from, inter alia, UNFPA, UNICEF, WHO and UNAIDS.<sup>119</sup>

#### Notes

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>

<sup>2</sup> The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography

ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance

- <sup>3</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- <sup>4</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- <sup>5</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).
- <sup>6</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning the Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- <sup>7</sup> CEDAW/C/PAN/CO/7, para. 56.
- <sup>8</sup> CERD/C/PAN/CO/15-20, para. 22.
- <sup>9</sup> Ibid., para. 25.
- <sup>10</sup> CCPR/C/PAN/CO/3, para. 10.
- <sup>11</sup> UNCT submission to the UPR on Panama, 2010, para. 64.
- <sup>12</sup> CCPR/C/PAN/CO/3, paras. 3 and 4.
- <sup>13</sup> Ibid., para. 6.
- <sup>14</sup> UNCT submission to the UPR on Panama, 2010, para. 31.
- <sup>15</sup> CEDAW/C/PAN/CO/7, para. 12.
- <sup>16</sup> CERD/C/PAN/CO/15-20, para. 5.
- <sup>17</sup> Ibid., para. 8.
- <sup>18</sup> Ibid., para. 9.
- <sup>19</sup> CCPR/C/PAN/CO/3, para. 8.
- <sup>20</sup> For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/13/45, annex I.
- <sup>21</sup> CEDAW/C/PAN/CO/7, para. 8.
- <sup>22</sup> CERD/C/PAN/CO/15-20, para. 6.
- <sup>23</sup> UNCT submission to the UPR on Panama, 2010, paras. 50 and 51.
- <sup>24</sup> UNCT submission to the UPR on Panama, 2010, para. 57.
- <sup>25</sup> CERD/C/PAN/CO/15-20, para. 7.
- <sup>26</sup> Ibid., para. 10.
- <sup>27</sup> CRC/C/15/Add.233, 30 June 2004, para. 3.
- <sup>28</sup> UNCT submission to the UPR on Panama, 2010, para. 58.

- <sup>29</sup> UNCT submission to the UPR on Panama, 2010, paras. 14 and 15.
- <sup>30</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 092010PAN111, para 5.
- <sup>31</sup> The following abbreviations have been used for this document:
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|--------------|--|
| CERD         | Committee on the Elimination of Racial Discrimination        |
| CESCR        | Committee on Economic, Social and Cultural Rights            |
| HR Committee | Human Rights Committee                                       |
| CEDAW        | Committee on the Elimination of Discrimination against Women |
| CAT          | Committee against Torture                                    |
| CRC          | Committee on the Rights of the Child                         |
- <sup>32</sup> CERD/C/PAN/CO/15-20, para. 3.
- <sup>33</sup> E/CN.4/2003/16, p. 13.
- <sup>34</sup> A/HRC/12/34/Add.5.
- <sup>35</sup> The questionnaires referred to are those reflected in an official report by a special procedure mandate holder issued between 1 January 2006 and 30 June 2010. Responses counted for the purposes of this section are those received within the relevant deadlines, and referred to in the following documents: (a) E/CN.4/2006/62, para. 24 and E/CN.4/2006/67, para. 22; (b) A/HRC/4/23, para. 14; (c) A/HRC/4/24, para. 9; (d) A/HRC/4/29, para. 47; (e) A/HRC/4/31, para. 24; (f) A/HRC/4/35/Add.3, para. 7; (g) A/HRC/6/15, para. 7; (h) A/HRC/7/6, Annex; (i) A/HRC/7/8, para. 35; (j) A/HRC/8/10, para.120, footnote 48 ; (k) A/62/301, paras. 27, 32, 38, 44 and 51; (l) A/HRC/10/16, footnote 29 AND Corr.1, n° 4; (m) A/HRC/11/6, Annex; (n) A/HRC/11/8, para. 56; (o) A/HRC/11/9, para. 8, footnote 1; (p) A/HRC/12/21, para.2, footnote 1; (q) A/HRC/12/23, para. 12; (r) A/HRC/12/31, para. 1, footnote 2; (s) A/HRC/13/22/Add.4; (t) A/HRC/13/30, para. 49; (u) A/HRC/13/42, Annex I; (v) A/HRC/14/25, para. 6, footnote 1; (w) A/HRC/14/31, para. 5, footnote 2.
- <sup>36</sup> OHCHR 2007 Report, pp. 58 and 118.
- <sup>37</sup> OHCHR 2008 Report, p. 28.
- <sup>38</sup> Ibid., p. 139.
- <sup>39</sup> OHCHR 2009 Report, p. 119.
- <sup>40</sup> Ibid.
- <sup>41</sup> Ibid.
- <sup>42</sup> OHCHR 2007 Report, p. 48.
- <sup>43</sup> OHCHR 2009 Report, p. 212.
- <sup>44</sup> CEDAW/C/PAN/CO/7, para. 22.
- <sup>45</sup> UNCT submission to the UPR on Panama, 2010, para. 51.
- <sup>46</sup> CERD/C/PAN/CO/15-20, para. 18.
- <sup>47</sup> Ibid., para. 11.
- <sup>48</sup> CEDAW/C/PAN/CO/7, para. 12.
- <sup>49</sup> Ibid., para. 13.
- <sup>50</sup> UNCT submission to the UPR on Panama, 2010, para. 44
- <sup>51</sup> CEDAW/C/PAN/CO/7, para. 26.
- <sup>52</sup> Ibid., para. 27.
- <sup>53</sup> CCPR/C/PAN/CO/3, para. 18.
- <sup>54</sup> CEDAW/C/PAN/CO/7, para. 28.
- <sup>55</sup> Ibid., para. 29.
- <sup>56</sup> UNCT submission to the UPR on Panama, 2010, para.24
- <sup>57</sup> Ibid., para. 26
- <sup>58</sup> CCPR/C/PAN/CO/3, para. 10.
- <sup>59</sup> Ibid., para. 11.
- <sup>60</sup> CEDAW/C/PAN/CO/7, para. 30.
- <sup>61</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 092010PAN029, 1<sup>st</sup> para.
- <sup>62</sup> CCPR/C/PAN/CO/3, para. 20.
- <sup>63</sup> UNCT submission to the UPR on Panama, 2010, para. 28.

- <sup>64</sup> Ibid., para. 30.
- <sup>65</sup> CCPR/C/PAN/CO/3, para. 13.
- <sup>66</sup> UNCT submission to the UPR on Panama, 2010, para. 22.
- <sup>67</sup> Ibid., paras. 24 and 25.
- <sup>68</sup> Ibid., para. 35.
- <sup>69</sup> CEDAW/C/PAN/CO/7, para. 50.
- <sup>70</sup> CRC/C/15/Add.233, paras. 21 and 22.
- <sup>71</sup> Ibid., para. 29.
- <sup>72</sup> Ibid., para. 36.
- <sup>73</sup> UNCT submission to the UPR on Panama, 2010, para. 68.
- <sup>74</sup> CERD/C/PAN/CO/15-20, para. 20.
- <sup>75</sup> CEDAW/C/PAN/CO/7, para. 32.
- <sup>76</sup> Ibid., para. 33.
- <sup>77</sup> CCPR/C/PAN/CO/3, para. 17.
- <sup>78</sup> UNCT submission to the UPR on Panama, 2010, para. 45.
- <sup>79</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062010PAN111, 1<sup>st</sup> and 2<sup>nd</sup> paras.
- <sup>80</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Equal Remuneration Convention, 1951 (No. 100), 2010, Geneva, doc. No. (ILOLEX) 062010PAN100, 2<sup>nd</sup> and 3<sup>rd</sup> paras.
- <sup>81</sup> Ibid., 1<sup>st</sup> para.
- <sup>82</sup> CEDAW/C/PAN/CO/7, para. 38.
- <sup>83</sup> Ibid., para. 39.
- <sup>84</sup> CCPR/C/PAN/CO/3, 17 April 2008, para. 16.
- <sup>85</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 092010PAN111, 6<sup>th</sup> para.
- <sup>86</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Freedom of Association and Protection of the Right to Organize Convention, 1848 (87), 2009, Geneva, doc No (ILOLEX): 062009PAN087, 6<sup>th</sup> para.
- <sup>87</sup> E/C.12/1/Add.64, paras. 15 and 29.
- <sup>88</sup> CRC/C/15/Add.233, 3, para. 57.
- <sup>89</sup> United Nations Development Assistance Frameworks (UNDAF), *Cerrando las brechas: Evaluación Común de País y Marco de Cooperación para el Desarrollo en Panamá, 2007-2011*, pp. 13 and 15, available at [http://www.undg.org/archive\\_docs/9223-Panamá\\_CCA\\_UNDAF\\_2007-2011.pdf](http://www.undg.org/archive_docs/9223-Panamá_CCA_UNDAF_2007-2011.pdf).
- <sup>90</sup> UNCT submission to the UPR on Panama, 2010, para. 36.
- <sup>91</sup> CRC/C/15/Add.233, para. 44.
- <sup>92</sup> UNDAF, *Cerrando las brechas: Evaluación Común de País y Marco de Cooperación para el Desarrollo en Panamá, 2007-2011*, p. 25, available at [http://www.undg.org/archive\\_docs/9223-Panamá\\_CCA\\_UNDAF\\_2007-2011.pdf](http://www.undg.org/archive_docs/9223-Panamá_CCA_UNDAF_2007-2011.pdf).
- <sup>93</sup> CEDAW/C/PAN/CO/7, para. 42.
- <sup>94</sup> Ibid., para. 43.
- <sup>95</sup> CCPR/C/PAN/CO/3, para. 9.
- <sup>96</sup> CEDAW/C/PAN/CO/7, para. 40.
- <sup>97</sup> Ibid., para. 41.
- <sup>98</sup> Ibid., para. 45.
- <sup>99</sup> CERD/C/PAN/CO/15-20, para. 19.
- <sup>100</sup> UNCT submission to the UPR on Panama, 2010, para. 42.
- <sup>101</sup> CEDAW/C/PAN/CO/7, para. 35.
- <sup>102</sup> Ibid., para. 36.
- <sup>103</sup> Ibid., para. 34.
- <sup>104</sup> CRC/C/15/Add.233, para. 63.
- <sup>105</sup> Ibid., para. 64.
- <sup>106</sup> CRC/C/15/Add.233, para. 52.
- <sup>107</sup> CERD/C/PAN/CO/15-20, para. 12.

- <sup>108</sup> CCPR/C/PAN/CO/3, para. 21.  
<sup>109</sup> UNCT submission to the UPR on Panama, 2010, para. 47.  
<sup>110</sup> CERD/C/PAN/CO/15-20, para. 14.  
<sup>111</sup> *Ibid.*, para. 15.  
<sup>112</sup> A/HRC/12/34/Add.5, para. 60.  
<sup>113</sup> *Ibid.*, annex, para. 137.  
<sup>114</sup> CERD/C/PAN/CO/15-20, para. 16.  
<sup>115</sup> UNCT submission to the UPR on Panama, 2010, para 54.  
<sup>116</sup> CEDAW/C/PAN/CO/7, para. 58.  
<sup>117</sup> CCPR/C/PAN/CO/3, para. 23.  
<sup>118</sup> CRC/C/15/Add.233, para. 62.  
<sup>119</sup> *Ibid.*, para.48.
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