

Panama

1. Discrimination in the family

a) Overarching legal framework for marriage

Women have equal rights as men to enter into marriage (Family Code, Article 33). While there is no specific legal provision which prohibits forced marriage, a specific family law provision is used to address the latter. More specifically, a court can order the annulment of a marriage performed without the consent of one of the two spouses (Family Code, Article 224).

The law recognises both civil marriage and religious marriage (Family Code, Article 27). However, a religious marriage will not have any civil effect, if it is not preceded by a civil ceremony (Family Code, Article 28). In addition, before the wedding, couples are required to obtain a marriage license before the competent court for the jurisdiction where at least one of the parties lives (US Embassy in Panama, n.d.).

Indigenous people make up 12% of Panama's population, in seven groups: Embera, Waunaan, Ngöbe, Bugle, Gunas, Naso and Bri Bri (Just Associates, 2014). Since independence from Colombia in 1903, Panama's constitutions have provided for the protection of ethnic identity (Leonard, 2014) and indigenous customary marriages are recognised by law (Family Code, Article 67). The law also provides for the official registration of informal partnerships and they are regulated by law (Family Code, Article 55).

b) Child marriage

The legal age of marriage for both women and men is 18 (Ley del 5 de mayo 2015, Article 33). In 2015, the government removed provisions permitting an earlier age of marriage with parental permission (previously girls aged 14 years and boys aged 16 years could marry) (Girls not Brides, n.d.).

Child marriage is prohibited (Ley 30 de 5 de mayo 2015, Article 33) and there are penalties for authorising or knowingly entering into child or early marriage (Criminal Code, Article 210). However, in practice, and despite stringent regulations, child marriage is still an important issue (UNICEF, 2016).

c) Household responsibilities

There are no restrictions in the Family Code regarding the rights of a woman to be recognised as head of the household. Similarly, there is no provision on parental authority, though Article 1 of the Family Code stipulates "equal rights and duties" for spouses. In addition, the Family Code provides that both spouses are obliged to help pay for the costs of feeding the family and other expenses, each in proportion to their financial means (Family Code, Article 79). The right to jointly decide on the location of the family home is also stipulated in the Family Code (Family Code, Article 77).

As for the economic rights of parties to a marriage, they must be stipulated by the spouses in a marriage contract (Family Code, Article 86). Otherwise they shall be governed by a profit sharing regime whereby each of the spouses acquires the right to participate in the profits made by the other

during the period to which that regime applied (CEDAW, 2008).

The Equal Opportunities for Women law (1999) states that the government must provide services that allow for an equitable distribution of family responsibilities in couples (Equal Opportunities for Women law, Article 2). However, traditionally, Panamanians have clearly defined roles at home, although this is slowly evolving (ECLAC, 2016).

Similarly, Panama's indigenous groups have similar societal roles for women and men, with both genders adhering to the traditional division of labour. Men hunt and fish while women are usually confined to their roles of mothers and caregivers (Hassig and Quek, 2007).

d) Divorce

The Family Code does not discriminate against women in terms of divorce rights. Both women and men have the same right to initiate divorce after two years of marriage (Family Code, Article 212). In the case of divorce, both parents continue to share parental authority over their children (Family Code, Article 217). However, in the interest of the child, a judge can decide to give parental authority to one of the parents (Family Code, Article 217). Custody is usually granted to the mother, except when there is a specific reason not to do so (Emery, 2013). There are no customary, religious, or traditional practices that discriminate against women's legal rights to initiate divorce, or be guardian of their children after divorce.

According to social norms, having a *querida* (mistress) is acceptable in many circles. However, a woman is supposed to have a relationship with only one man at a time. The wife is usually aware of her husband's extra marital affairs, and in the past, women in these situations were left with no choice other than to accept it because they had no financial independence. Today, this is slowly evolving as women are now in the workforce and significantly contributing to household expenses as well as less tolerant to infidelity, therefore, divorce is becoming more common (Seales Soley, 2008).

e) Inheritance

Daughters and female surviving spouses have equal rights as men to inherit land and non-land assets (Civil Code, Articles 622 and 686). There are no restrictions for women to execute or administer a will. Generally, there are no customary, religious, or traditional practices or laws that discriminate against daughters and female surviving spouses' legal rights to inherit. However, in certain indigenous groups such as the Embera, the society is patrilineal, which means that children inherit from their father rather than from their mother (Hassig and Quek, 2007).

2. Restricted Physical integrity

a) Violence against women

Panama ratified the Convention of Belem do Para in 1995. However, there is no provision in the Constitution mentioning that the Convention takes precedence over domestic legislation.

In addition to the Convention, Law 82 adopted in 2013 on Femicide and Violence Against Women and set forth new means of protection against violence available to women (*Ley 82*, Article 1). The law

classifies femicide—the intentional murder of women because they are women—as a crime and established a regulatory framework to eradicate all forms of violence against women.

The State has also taken steps for the implementation of this law, including the appointment of a special prosecutor, the creation and regulation of the National Committee on Violence against Women and an allocation of specific budgets for the implementation of specific programmes and activities aiming to prevent violence against women (Law 82, Articles 15 & 16). Furthermore, the Ministry of Social Development's National Directorate of Women (DINAMU) provides training to managers, administrative staff, and operatives in the various competent bodies dealing with violence against women and gender-based violence (CEDAW, 2008). The Ombudsman's Office also established a programme "*Mujer Conoce tus Derechos*" (Woman, Know Your Rights), which included a wide distribution of flyers featuring women of different ages, professions and ethnic groups, with a quote expressing their views on gender problems including violence against women (US Department of State, 2016). In addition, Panama has an assigned budget to campaigns to prevent violence against women (OAS, 2014).

The legal framework is also complemented by an active state policy, expressed by the adoption of an action plan "*Política Pública de Igualdad de Oportunidades para las Mujeres*" whose one of the targets is to eliminate violence against women within the society (*Política Pública de Igualdad de Oportunidades para las Mujeres*, *eje violencia contra la mujer*). However, violence against women is still prevalent in the society. In its 2010 report, the CEDAW committee expressed its concern over the high prevalence of cases of violence against women and the lack of adequate services and protection for victims of violence, including the lack of reporting mechanisms available to victims as well as the absence of awareness campaigns to educate women on their rights (CEDAW, 2010).

Although no data exists on violence against indigenous women, reports suggest that it is common, especially in rural areas. Indigenous women also face sexual violence in the context of persistent conflicts along the Panama-Colombia border with the presence of guerrillas, paramilitaries, insurgents and drug trafficking (Just Associates, 2014).

b) Domestic violence

The Law 38 of 2001, Law 82 of 2013 and the Criminal Code (Article 200) criminalise domestic violence. Domestic violence legislation covers physical, sexual, psychological and economic abuses. In addition, protection is provided in cases involving: "marriages; de facto unions; couples together for fewer than five years when there is evidence that their intention is to remain together; kinship through consanguinity, affinity or adoption; minor children not in common, whether or not they live under the family roof; and persons who together have procreated a child" (Criminal Code, Article 200).

The Criminal Code, Article 200 also specifies that the sentence for the crime of domestic violence is to 2-4 years in prison and in some cases with aggravated circumstances, to 4-6 years of imprisonment. An aggressor causing bodily harm to another is liable to a more severe punishment in cases of domestic violence. Although a sentence of imprisonment for domestic violence can be commuted to therapeutic treatment, the aggressor who fails to complete such treatment will immediately be sent to prison to serve his or her sentence (CEDAW, 2008).

Furthermore, the government has established in 2016 a specific guideline dedicated to professionals investigating crimes of domestic violence (*Protocolo de investigación de los delitos de violencia contra las mujeres cometidos en el marco de las relaciones de pareja e intrafamiliares*, 2016).

The legal framework is also complemented by an active state policy, expressed by the adoption of the National Plan for Preventing and Addressing Domestic Violence and for Civil Coexistence, in place since 2004 (CEDAW, 2010). In addition, the government sponsors and funds programmes targeted at female victims of violence, including shelters, counselling (within the Guidance and Comprehensive Care Centre) as well as free and confidential hotlines receiving domestic violence complaints. The Shelter-Home for Surviving Victims of Domestic Violence has personnel trained in psychology, social work and legal counselling. It also provides board and lodging and clothes for the survivors and their children (CEDAW, 2008).

Although the state has developed a mechanism to compile and coordinate statistical data, there is limited recent data on the prevalence of violence against women. Officials and civil society organisations agreed that domestic violence continues to be a serious and underreported crime. One of the explanations for that tendency according to The Ombudsman's Office is that the lack of victim protection together with the minimal amount of prosecutions discourage women to report such abuse (US Department of State, 2016).

c) Rape

The Criminal Code, article 171 in Panama prohibits rape, with a punishment of 5 to 12 years of imprisonment. The sentence is of eight to ten years under aggravating circumstances, such as use of a weapon or 10 to 15 years if the rape is committed by a person who knows they are infected with an incurable sexually transmitted disease or HIV.

In addition, individuals aged 17 or younger are not legally able to consent to sexual activity, and such activity may result in prosecution for statutory rape. A "close-in-age" exemption prevents the prosecution of underage couples who engage in consensual sex when both participants are significantly close in age to each other, and one or both are below the age of consent (Girls not Brides, n.d.).

The definition of rape does not require proof of physical force or penetration. Yet, it requires proof of the "use of a sexual organ". Marital rape is also included in the definition of rape (Criminal Code, article 171). Previously, the virginity of victims of over 14 years of age and less than 18 years of age was a prerequisite for the prosecution of rape. This provision was removed in 2008 from the Criminal Code (CEDAW, 2008).

In addition, the law mandates guidelines, protocols, special trainings and capacity building for professionals who may deal with cases of rape and sexual violence (particularly judges, policemen and health workers). Those trainings are performed by the National Committee on Violence Against Women and a specific governmental budget is assigned to that Committee for that purpose (Law 82, Article 15) The law also established a special jurisdiction especially in charge of gender-based crimes (Law 82, Article 72).

Rapes constitute the majority of sexual crimes investigated by the Police (US Department of State, 2016). However, few alleged perpetrators were held accountable because victims and witnesses were

unwilling to come forward (Amnesty International, 2013). Indeed, NGOs reported that many women were reluctant to report rapes due to fear of retaliation, perceived low likelihood of a response, and social stigma (US Department of State, 2016).

d) Sexual harassment

Although Panama does not have laws specifically targeting sexual harassment, there are laws that punish such activities, including the labour Code which prohibits sexual harassment in cases of employer employee relations in the public and private sectors. Violators face a maximum three-year prison sentence (Labour Code, Article 127). Further, the Law No. 9 of June 1994 “Establishing and Regulating the Administrative Career” includes a provision that establishes sexual harassment as immediate grounds for dismissal in administrative careers. Law No. 4 on Equal Opportunities for Women (1999) has a provision for the prevention of sexual harassment. Finally, the Criminal Code, Article 175 classifies sexual harassment as a crime, punishable with one to three years of imprisonment. However, the law does not specifically address sexual harassment in settings such as sporting and educational establishments, public places or online. Furthermore, the CEDAW Committee in its 2010 report noted with concern that the legal protection of those facing sexual harassment is inadequate (CEDAW, 2010).

In practice, the extent of the problem is difficult to assess because convictions for sexual harassment are rare. The lack of formal reports is mainly due to the absence of a follow-up protocol after initial complaints are filed, the difficulty of providing proof in the absence of third-party witnesses, the lack of favourable results in the few past cases, and the likelihood that a woman filing a complaint would be fired (US Department of State, 2016).

e) Female genital mutilation

There is no known practice of female genital mutilation in Panama.

f) Abortion

Abortion is only permitted to save a woman’s life or health, danger to the foetus or in the event of rape or incest. In the event of rape, there is a limitation that the termination is carried out within the first two months of pregnancy and the rape is evidenced in court proceedings (Criminal Code, Article 144). The penalty for a woman who has an illegal abortion is one to three years in prison and the penalty for a doctor or other person performing the procedure with the consent of the woman is three to six years. If the procedure is performed without the consent of the woman, the penalty is five to ten years (Criminal Code, Article 141).

The Government of Panama strongly supported family planning and has been providing subsidised services since 1973. However, adolescent fertility is a major concern and a programme of sex education in the schools has been implemented. Parental participation and the dissemination of information on sex education through the press are also encouraged. Despite these efforts, it is estimated that more than 20% of declared abortions in Panama involve adolescents (United Nations, n.d.).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

The law provides for equal rights to married and unmarried women over the ownership, use, decision-making power, and use as collateral over land and non-land assets (Civil Code, Article 337 & Family Code, article 102). The default marital regime is deferred community of property (Family Code, Articles 81-82, 103-104 and 121-122); in this specific regime the original owner administers his own assets.

In addition, several measures were established to promote joint titling among couples and de facto unions. More particularly, Law No 68 of 19 December 2001, Article 1 establishes that spouses or partners in a de facto union of persons legally entitled to marry may legitimately purchase land and that it is incumbent upon the State to promote joint titling of land (CEDAW, 2008).

The legal framework is also complemented by an active state policy encouraging rural women's participation in the economy. More particularly, the Equal Opportunities Plan 2016 states that programmes must be designed and implemented to raise the level of rural and indigenous women's participation in rural economic enterprise.

However, several obstacles persist in practice. The CEDAW Committee in its 2010 report noted with concern the high level of illiteracy among rural women speaking indigenous languages. While there are programmes to eliminate illiteracy, including through campaigns such as “*Muévete por Panamá*” there are currently no programmes promoting legal literacy of women to ensure that they understand their land and property rights (CEDAW, 2010). In addition, indigenous women often face the violence inherent in takeovers of their territories and displacement (Just associates, 2014).

b) Secure access to formal financial resources

Married and unmarried women have equal rights as men to open a bank account at a formal institution. They similarly have equal rights as men to obtain credit. In addition, Law No. 4 on Equal Opportunities for Women (Article 105) establishes that credit unions and retail co-operative societies must be fostered in order to create a support network, above all for women in rural areas (CEDAW, 2008). That support network has been implemented through the Organization's Program of Rural Woman “*Programa de organización de la mujer rural (MIDA)*” whose principal goal is to consolidate and connect women's organisations in order to foster social and economic progress (*Plan Nacional de Seguridad alimentaria y nutricional de Panamá 2017-2021*).

As for financial credit, a governmental initiative called “With You Rural Woman” (*Contigo Mujer Rural*) project grants micro-credits to women in rural and indigenous communities. The loans support livestock, agricultural, commercial, services, and manufacturing activities (CEDAW, 2008).

c) Workplace rights

Panama has ratified ILO Conventions 100, 111, 189, but not 183 or 156.

The law does not mandate non-discrimination on the basis of sex in employment. However, it mandates equal remuneration for work of equal value (Constitution, Article 67) which is a principle highly promoted by the Ministry of Social Development and the National Institute of Women (US

Department of State, 2016). Nevertheless, the provision does not seem properly enforced in practice. Indeed, the CEDAW Committee in its 2010 report expressed its concern about the persistence of a salary gap in the private sector and insufficient understanding of the principle of equal pay for work of equal value (CEDAW, 2010).

The law prohibits women from entering certain professions, more particularly, professions that are deemed as “insalubrious” (Labour Code, Article 104). Women can work the same night hours as men and they do not need permission from their husband or legal guardian to either choose a profession or register a business.

The law mandates paid maternity leave of 14 weeks (Labour Code, Article 107) paid through the Social Security system. In cases when the maternity leave is not covered by the Social Security System, that obligation will be incumbent on the employer. If the birth is delayed, the worker shall be entitled to receive paid leave for the eight weeks following delivery. Article 699 of the Family Code establishes that: “In all population centres, the State shall provide medical and public health services free of charge to expectant mothers and during childbirth and the puerperium, if the mother cannot pay for them, as well as a food subsidy if she is unemployed or without the means to take care of herself” (CEDAW, 2008). However, there is currently no mandatory paternity or parental leave (Law 51 de 2005, Article 146).

The law protects women’s employment security while they are on maternity leave (Article 68, Constitution). Upon returning to work, the mother may not be dismissed for one year, except in special cases prescribed by law. However, reports suggest that discrimination due to pregnancy is widespread. Although illegal, some employers continue to request pregnancy tests (US Department of State, 2016).

In addition, gender discrimination is particularly reflected in the labour market through the sexual division of labour. Indeed, male and female roles are envisioned to be completely opposite: men are providers while women must be dedicated to the family, even if they are highly educated (De León, n.d.). In rural areas, women are still expected to get married young and work to support their families, preventing them from going to school and even receiving the most basic education (Seales Soley, 2008). The CEDAW Committee noted with concern that, despite the high level of education, many women in Panama continue to suffer from higher rates of underemployment and unemployment, that is particularly the case in rural areas where women are segregated in employment sectors with low wages (CEDAW, 2010). The labour force participation of female is also significantly lower in indigenous communities (CEPAL, 2013).

4. Restricted Civil liberties

a) Citizenship rights

Panamanian women enjoy equal rights as men to acquire, change or retain their nationality (Constitution, Article 9). Married women also have equal rights as married men to confer nationality to their spouse (Constitution, Article 9). In addition, married and unmarried women have equal rights as men to register the birth of their children (*Ley de registro civil*, Article 19).

However, birth registration is problematic in certain remote areas mainly populated by indigenous population. To address that issue, the Electoral Tribunal has been working with UNICEF support to decrease the number of underreported births. However, there is a major resistance to birth registration among certain religious leaders of those communities which sometimes complicates the task (United Nations, 2015).

Married and unmarried women have equal rights as men to apply for identity cards and passports (Identity Card and Passport application procedures). The law does not discriminate against women with respect to the passports and other travel documents of minor children and both unmarried and married women have the same rights as men to travel outside the country. To apply for a national identity card, individuals must fill out the appropriate form and provide a copy of one of their parent's ID card (ID application procedures).

b) Voting

Regarding women's right to vote, debates over the role of feminism gained great weight during the 1920-1930's. The Feminist Group Renovation (FGR) under the direction of Clara Gonzalez (first female lawyer in Panama) became the first feminist party in Central America with strong ties to international feminist and suffragist movements (Smith, 2008). Intense lobbying from those groups and public pressure resulted in a 1941 electoral law which granted the right to vote for and be elected in provincial bodies to women if they held a university degree or had completed vocational training, a teacher's college, or secondary schooling. Full political rights were granted to women in 1946 making Panama the first Central American country to grant the right to vote to women (Women Suffrage and Beyond, n.d.). That right is currently enshrined in the Constitution (Article 135).

c) Political voice

Women in Panama have equal rights as men to hold public and political office in the legislature, executive and judiciary (Constitution, article 132). Panama has also adopted various provisions in order to improve gender balance in politics. More particularly, according to article 239 of the Electoral Code of Panama (amended by Law 54, 2012, Article 6), nomination lists of political parties presented for primaries and internal elections should include 50% women. The 2012 electoral reform also established the Secretary of Women, which oversees compliance of the gender quota within internal party nominations (IFES, 2014). If the level of women's participation is less than the standard provided by this article, and this is attested by the women's secretariat, the party can fill the vacant candidacies with male candidates.

In the same vein, Law No 6 of 17 December 2002, encourage capacity building for women inside political parties by establishing the obligation "to earmark at least 10% of public funding for elections for training women".

d) Access to justice

Married and unmarried women have equal capacity as men to be sued. Married and unmarried women's testimony also carries the same evidentiary weight as a man's in civil, criminal, family court, and tribunals.

There are no specific measures in place to protect human rights defenders, despite widespread reports of harassment, intimidation, and threats of journalists covering sensitive topics (US Department of State, 2016).

In 2009, the government established the National Institute for Women (INAMU) with the main objective of coordinating and monitoring compliance with issues relating to equality of opportunity for women, and to encourage greater national awareness on the issue of gender inequality (Law 71, Article 1).

In parallel, the National Gender Training System (agency attached to the Ministry of Social Development) is in charge of strengthening, through training and sensitization in gender issues, the capacity of both governmental and nongovernmental institutions to incorporate — in the short, medium, and long term — the gender perspective in the formulation, implementation, monitoring and evaluation of public policies, programs and projects for their respective target populations (Executive Decree No 31 of 16 April 2001). In addition, a specific network was established in 2002 to collect and contribute to the development and improvement of national statistics from a gender perspective (*Sistema de Indicadores con Enfoque de Género de Panamá*) (Executive Decree No 89 of 20 November 2002, Article 1).

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