



Targeted Surveys on application of core labour standards Panama

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Targeted Surveys on application of core labour standards, Panama

This report has been developed to provide a picture of the application of core labour standards in Panama. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

Progress

- Prosecution & conviction rates of forced labour perpetrators
- Child labour rates
- Training for inspectors
- Number of registered unions
- Number of women accessing employment

Challenges

- Limitations on union formation and strikes
- Minimum working age for light work and training
- Low capacity and independence of inspectorate
- Discrimination against indigenous persons

Key context

Panama has been one of the fastest growing economies in Central America in the last decade. Despite this economic growth, there are persistent levels of inequality and disparities between urban and rural areas, and high levels of informality, particularly affecting indigenous people. Corruption is also reportedly a problem.

Freedom of association and collective bargaining

There are some noted limitations in Panama's legislation regarding freedom of association. Examples include provisions that require unions have a 40-member minimum and that a majority of employees of the enterprise or establishment must support a strike for it to be deemed legal. Certain categories of public workers, including Panama Canal workers, are not allowed to strike, while other service providers must ensure that service is not interrupted.

There are some reports of employer use of security forces to prevent union activity and violent clashes between employers and workers, or between rival unions. Other constraints reported include the practice of 'disguised' dismissals of union leaders, refusal by companies to let union leaders be in contact with strikers or address workers during negotiations, arrests of striking workers, and failure by employers to engage in collective bargaining.

On the other hand, the government is recognised to be making progress in the implementation of legislation regarding freedom of association, with a proposal for new rules related to public sector unions and an executive decree prohibiting employer interference with trade unions and specifically banning employer-controlled unions which

are a concern in the country. The ILO CEACR had also previously noted that the government was failing to grant legal personality to unions. The Committee have subsequently noted with interest that the government reported having addressed this situation, with a number of unions being registered.

Forced labour

Despite a generally strong legislative framework, forced labour, including in the form of debt bondage, is a risk issue in Panama. Most victims of forced labour in Panama are men trafficked or deceptively recruited from Nicaragua, Colombia, and Venezuela. Victims are most commonly found to be working in construction, agriculture, mining and, to a lesser extent, small businesses. Reports indicate that organised crime groups are engaged in the trafficking of persons.

Social partners report that services for victims are limited, the National Commission Against Trafficking in Persons is underfunded and understaffed, and interagency coordination is weak. Nonetheless, Panama has shown some progress in its efforts to combat forced labour. Efforts noted by the ILO CEACR include cooperative plans, training and awareness-raising campaigns, strengthening of services for victims and mechanisms for victim identification, and increased law enforcement. Panama was also the first country in the Americas to ratify ILO's 2014 Protocol to the Forced Labour Convention (P29) in 2016.

Child labour

Despite increased efforts to combat child labour and a relatively strong legislative framework, the government indicates that 23,855 children were engaged in child labour in 2016. A majority of children work in the agricultural sector, including in hazardous activities. International observers report that indigenous children are most affected, working in agriculture, forestry, fishing and hunting, construction, services, artisanal mining, and street vending. According to a government study, in some parts of the indigenous community, familial attitudes related to disability and gender identity compels families to send some children to work instead of school.

UN Committee on the Rights of the Child has expressed concern over provisions in the law that allow children over 12 to perform light work with authorisation, without defining light work or delineating limitations. Specialised agencies are noted as lacking sufficient human, technical, and financial resources to eradicate child labour and inspection efforts are thought to be inadequate in the informal and agricultural sectors.

Despite these constraints, the government has reported a decrease in child labour. As noted by the ILO CEACR, the government has partnered with international organisations and the private sector through its *Roadmap to ensure that Panama is a country free of child labour and its worst forms* to engage in efforts to reduce the practice.

Discrimination

The Panamanian legal framework on non-discrimination is generally considered to be in line with international standards, with notable exceptions being the absence of sexual orientation as a prohibited ground for discrimination and a narrow definition of the principle of equal pay for work of equal value.

However, despite comprehensive legislation and a number of efforts by the government, private sector and social partners, there are reports of discrimination in the workforce, particularly on the basis of race, gender, disability, sexual orientation, gender identity, HIV status, and migration status.

The persistence of traditional gender stereotypes is reported to be an obstacle to women's equality in the workforce. Women present higher levels of unemployment, lower levels of labour force participation, and are affected by lower wages, sexual harassment, and discrimination based on pregnancy. Discrimination against indigenous persons in employment is also deemed to be a significant issue by some stakeholders, with international observers attributing indigenous persons' lack of access to decent employment to extreme poverty and the prevalence of racial discrimination in the country. International observers have pointed to prejudice about the capabilities of persons with disabilities and lack of oversight, data, and resources as obstacles to equal employment opportunity and labour market access for persons with disabilities.

Other working conditions

There are a number of reported challenges regarding other working conditions. In particular, the high rates of informality affect workers' access to social security and other benefits and the use of short-term contracts is alleged to be a widespread way to circumvent labour laws. High levels of informality are particularly reported in relation to work carried out in indigenous areas.

Occupational safety and health. Fines are reported to be insufficient to deter OSH violations, with an inadequate number of inspectors. However, the government reports a decrease in injuries, due in part to an increased budget for the Ministry of Labour, trainings, and other efforts. Legislative changes may lead to improvement of workplace safety in vulnerable sectors. The ILO CEACR has noted government efforts to reduce occupational accidents in the construction sector and a legislative proposal advanced by the government to increase employers' responsibility for OSH in the sugarcane sector.

Working time. There are numerous reports of violations of maximum working time in the maritime and agricultural sectors, particularly on coffee and sugarcane plantations.

Wages. Panama increased its minimum wage in 2017, making it the country with the highest minimum wage in Latin America. It has been reported that agricultural workers receive the lowest wages in the country, and migrant workers frequently do not receive the minimum wage.

Social security coverage. Over 40% of the population is engaged in informal employment and does not qualify for social security benefits. Another concern is that employers hire workers on short term contracts to avoid contributing to the system. Workers in the agricultural sector and indigenous persons are most affected by gaps in social security coverage.

Status of ratification and reporting

Panama has ratified all eight ILO fundamental (core) labour conventions, including the 2014 Protocol to the Forced Labour Convention (P29). Panama has also ratified three of the four ILO governance (priority) conventions, except for C129 on Labour Inspection (Agriculture). Panama is up-to-date with all its reporting obligations to the ILO.

		Application issues - latest ILO CEACR observations and direct requests on core conventions
Freedom of association & collective bargaining	C87	(2016): Noted the creation of an Implementation Committee to address gaps in legislation, including: the 40-member requirement to form a union; prohibition against public sector workers forming unions; limitations on public sector organisations; requirement that union leaders be Panamanian; payment of union fees by non-members; the closure of establishments in case of strike and prohibition against the entry of non-strikers; automatic intervention of the police in strikes; prohibition of strikes called by union federations; prohibition of strikes against the government's economic and social policies and of those not related to an enterprise collective agreement; restraints on the right to strike particular to the transport sector; and the dismissal of public servants for failing to provide minimum services during a strike.
	C98	(2016): Noted that certain provisions regarding strikes are imposed by law rather than established through collective bargaining; that the law limits the number of representatives allowed in collective negotiations; and that public-sector workers do not have the right to collective bargaining.
Forced Labour	C29	(2018): Noted that most foreign victims rescued opt to return to their home countries rather than filing complaints in Panama, possibly due to fear of reprisals or lack of confidence in the judicial system. Asked that the govt provide information on victim services and compensation.
	C105	(2018): Noted that the law provides for mandatory labour for convicted prisoners, which could potentially be used to impose forced labour on strikers. The government responded that prison labour was voluntary in practice and that it was working to amend the law.
Child labour	C138	(2018): Noted that the law allows for minors under 14 to carry out hazardous work (if in training establishments with authorisation).
	C182	(2018): Noted that 7% of children between 5 and 17 work, rising to 35% for indigenous children; and that while the number of reported child labour violations is high, the number of penalties imposed remains low.
Discrimination	C100	(2016): Noted that the principle of equal pay for equal work in Panama is not in line with C100's equal pay for work of equal value. (2016): Requested the govt raise awareness about equal remuneration between men and women, including among inspectors.
	C111	(2016): Requested that the govt report on how it was ensuring public-sector workers were not discriminated against on the basis of their political opinions.

References

ILO CEACR, [Observations and Direct Requests for Panama](#).