



**Submission by Human Rights Watch to the Committee on Economic, Social and Cultural Rights  
In advance of its Adoption of the List of Issues for Panama  
68<sup>th</sup> pre-session, January 2021**

This submission relates to the review of Panama under the International Covenant on Economic, Social and Cultural Rights. It focuses on legal gender recognition and the protection of education from attack.

**Legal Gender Recognition (arts. 2 and 12)**

***Current Panama Policy***

The procedure in Panama for changing an individual's legal gender is regressive and harmful, requiring transgender people who want legal recognition to undergo invasive and irreversible medical procedures, impacting their right to the highest attainable standard of health.

Under Article 121 of the Civil Registry Law, the National Directorate of Civil Registry can issue a correction of sex in a birth certificate only when the request is accompanied by a certificate from a forensic doctor that determines whether "the sex corresponds to the owner."<sup>1</sup>

The absence of human rights-compliant legal gender recognition in Panama means that many transgender people, when required to present an identification document, risk being subjected to humiliation, discrimination, and even violence on the part of both public and private individuals and institutions.

A recent high-profile example of such discrimination has occurred in the context of the government's gender-based Covid-19 quarantine measures, which require men and women to circulate on alternating days. Authorities have subjected transgender people to humiliation, profiling, and arrests, including after identification checks, both when transgender people transited on days that reflected their gender identity and on days that reflected the sex marker on their identification cards.<sup>2</sup>

Panama's abusive preconditions for legal gender recognition violate the right to be free from discrimination, as they leave many transgender people without documents that reflect their identity. This exposes them to humiliation, discrimination, and even violence in their daily lives, including in sectors such as education, employment, health, and housing.

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<sup>1</sup> Civil Registry Law (*Ley del Registro Civil*), Electoral Tribunal, Government of Panama, available at, [https://www.tribunal-electoral.gob.pa/wp-content/uploads/2017/06/Texto\\_U\\_nico\\_-\\_Ley\\_31\\_y\\_Ley\\_17\\_de\\_22\\_de\\_mayo\\_de\\_2007.pdf](https://www.tribunal-electoral.gob.pa/wp-content/uploads/2017/06/Texto_U_nico_-_Ley_31_y_Ley_17_de_22_de_mayo_de_2007.pdf)

<sup>2</sup> To read some of Human Rights Watch's documentation of these cases, please see "Panama: New Trans Discrimination Cases Under Covid-19 Measures," Human Rights Watch news release, July 13, 2020, <https://www.hrw.org/news/2020/07/13/panama-new-trans-discrimination-cases-under-covid-19-measures>.

Panama's abusive medical requirements for legal gender recognition may have a detrimental impact on the right to the enjoyment of the highest attainable standard of physical and mental health as they may contribute to, inter alia, invasive surgeries, forced sterilization, and trauma.

***Human Rights Watch encourages the Committee to pose the following questions:***

- What steps is the government of Panama taking to provide transgender people a simple, administrative, and inexpensive mechanism to legally modify their gender on official documents?
- What steps is the government taking to address discrimination on the basis of gender identity in sectors including, inter alia, education, employment, health, and housing?

***Human Rights Watch encourages the Committee to make the following recommendations to the government of Panama:***

- Reform or repeal Article 121 of the Civil Registry Law requiring a certificate from a forensic doctor that determines whether "the sex corresponds to the owner" to issue a correction of sex in a birth certificate.
- Pass a gender identity law that allows people to change the sex markers on their official documents through a simple, administrative process, such as filing an application at the Civil Registry. Legal gender recognition should not include burdensome requirements that violate rights, such as a requirement to undergo divorce, surgery, or psychiatric evaluation before changing one's gender.
- Pass comprehensive civil non-discrimination legislation that explicitly includes gender identity as a protected class and that covers sectors including, inter alia, education, employment, health and housing, and ensure that any existing civil non-discrimination legislation is also applicable to discrimination on the grounds of gender identity and sexual orientation.
- Refrain from implementing policies that discriminate against transgender people, including, for example, the gender-based quarantine measures relied upon during the Covid-19 pandemic.
- Strengthen efforts to eliminate negative stereotypes and stigmatization of transgender persons, including through awareness-raising campaigns for the public, health-care providers, social workers, law enforcement and other public officials.

**The Protection of Students, Teachers, and Schools in Situations of Armed Conflict (art. 13)**

In June 2015, Panama became the 41<sup>st</sup> country to endorse the Safe Schools Declaration<sup>3</sup> and thereby committed to using the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict as a practical tool to guide their behavior during relevant security operations.<sup>4</sup>

Panama has also been very supportive of children in armed conflict and has promoted the protection of students, teachers, and schools. In December 2017, Panama hosted the 'Latin America Regional Implementation Workshop' on how to protect students, teachers, and schools from attack and schools from military use, that was attended by representatives from ten Latin American states that had already endorsed the Safe Schools Declaration. The state representatives comprised of the ministries of defense, foreign affairs, public security, and national armed forces, together with regional and international

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<sup>3</sup> Safe Schools Declaration, May 28, 2015, [https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe\\_schools\\_declaration.pdf](https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf) (accessed November 6, 2018).

<sup>4</sup> Global Coalition to Protect Education from Attack (GCPEA), Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, March 18, 2014, [http://protectingeducation.org/sites/default/files/documents/guidelines\\_en.pdf](http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf) (accessed November 6, 2018).

peacekeeping and education experts. They exchanged practices and discussed ways in which their governments can meet the commitments made in the Safe Schools Declaration.<sup>5</sup>

***Human Rights Watch encourages the Committee to make the following recommendations to the government of Panama:***

- Commend Panama for its endorsement of the Safe Schools Declaration and the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict;
- Encourage Panama to continue to develop and share examples of its implementation of the Declaration’s commitments with this Committee and with other countries that have endorsed the Safe Schools Declaration—particularly during the 2021 Fourth International Safe Schools Conference in Nigeria—as examples of good practice in protecting students, teachers, and schools during armed conflict.

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<sup>5</sup> Global Coalition to Protect Education from Attack (GCPEA), “Ten Latin American Countries Convene to Protect Education,” <http://www.protectingeducation.org/news/ten-latin-american-countries-convene-protect-education> (accessed November 7, 2018).