

**Convention on the
Rights of the Child
Alternative Report Submission:
Indigenous Children's Rights
Violations in Panama**

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CRC Alternative Report Submission
Indigenous Children's Rights Violations in Panama

I. Reporting Organization

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC since 2005. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*, and on its website: www.cs.org.

II. Background

According to UNICEF, despite significant gains for children since the adoption of the Convention on the Rights of the Child in 1989, the world has not delivered upon its commitments to Indigenous children. Whether they live in low-, middle- or high-income countries, Indigenous children continue to face glaring disparities across all human development indicators.¹ 12.7% of Panama's population is Indigenous, and includes six Indigenous Peoples: Bri Bri, Buglé, Emberá, Kuna, Naso Teribe, Ngöbe, and Wounaan.² Two-thirds of the Indigenous population is Ngöbe, at 59.3%, and the Kuna, at 21.6%.³ Indigenous Peoples' lands, which encompass some of Panama's last remaining forests, have been increasingly threatened over the last decade by a wave of intensified exploitation of natural and social resources, especially mining, agro industry, massive hydroelectric dams, and tourism. Displacement as a result of these industries leads to income instability, food insecurity, poverty and malnutrition.

Most Indigenous people in Panama live in rural regions with poor access to education and health care. Indigenous children are particularly vulnerable to poverty, trafficking, and forced labor. As of 2017, over 40% of inhabitants in Indigenous districts had an income below the extreme-poverty line.⁴ As of 2016, poverty in Indigenous populations is about 70%, while extreme-poverty remains above 40%.⁵ Indigenous children are deprived of the stability, security, and recognition they need to become healthy, educated, and productive members of society.⁶

III. Issue Summaries: Violations to the Rights of Indigenous Children in Panama

¹ UNICEF. "UNICEF: Indigenous children left behind in their countries' progress" August 9, 2014.

² Ott, Stephanie. "Worlds Apart: Panama's Indigenous and the Panama Papers." *Aljazeera*, 9 Apr. 2016, www.aljazeera.com/indepth/features/2016/04/worlds-panama-Indigenous-panama-papers-160408102014340.html.

³ <http://www.educapanama.edu.pa/?q=articulos-educativos/conoce-los-7-pueblos-indigenas-de-panama>

⁴ <http://www.worldbank.org/en/country/panama/overview>

⁵ Ott, Stephanie. "Worlds Apart: Panama's Indigenous and the Panama Papers." *Aljazeera*, 9 Apr. 2016, www.aljazeera.com/indepth/features/2016/04/worlds-panama-Indigenous-panama-papers-160408102014340.html.

⁶ Ott, Stephanie. "Worlds Apart: Panama's Indigenous and the Panama Papers." *Aljazeera*, 9 Apr. 2016, www.aljazeera.com/indepth/features/2016/04/worlds-panama-Indigenous-panama-papers-160408102014340.html.

A. Freedom of Expression and Access to Information

Article 13 of the CRC states, “1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.” Article 16 of the UN Declaration on the Rights of Indigenous Peoples also guarantees Indigenous Peoples the right to their own forms of media.

For Indigenous communities in Latin America and elsewhere, community radio has been used as an effective tool for self-expression, human rights education, language revitalization, distance learning⁷, civic participation, and disaster relief coordination, and are an important tool for community development because they supply the public with an active, participatory mode of communication in rural Indigenous communities.⁸ Yet, Panama’s mainstream radio stations, television, and print media are only available in Spanish and rarely address issues that are important to Indigenous communities, particularly those in rural areas.⁹ By broadcasting in Indigenous languages, community radio stations can contribute to Indigenous children maintaining their cultures and languages and leads to improved self-esteem and civic participation.¹⁰

Despite the importance of community radio, Panama’s government has yet to issue a single license for an Indigenous community to operate a radio station. Panama’s Ley General de Telecomunicaciones (Law 24) established in 1999, establishes frequencies of “Type A” and “Type B” the former being commercial stations and the latter being non-profit stations of educational, cultural, or related content, which are to be authorized for free after a series of requirements are met. Yet, after faithfully meeting requirements, Indigenous communities experienced bureaucratic redlining, in which ASEP sought paperwork that would effectively make it impossible for communities to achieve licenses for frequencies.

In 2016, two Indigenous communities prepared applications for licenses after extensive consultation with ASEP, the Autoridad Nacional de Servicios Públicos, the regulatory body for radio frequencies. An application window was given to the communities to file during a period of only 5 days. The two organizations met all of the extensive requirements listed in the Telecommunications Law for accessing a license. Members of the boards of directors of each organization traveled to Panama City to submit the application. However, upon submitting the applications, they were told by ASEP that their application was missing paperwork that was not previously identified as part of the process: multiple years’ history of bank statements for each individual member of each of the boards of directors the organizations.

⁷ “Asociación Latinoamericano de la Educacion Radiofonica” <https://www.aler.org/node/1>

⁸ Pronunciamiento de la Red Centroamericano de radios Indigenas , August 09, 2017. <https://www.culturalsurvival.org/news/pronunciamiento-de-la-red-centroamericana-de-radios-comunitarias-indigenas-sobre-el-dia>

⁹ Cultural Survival, “Violaciones a la Libertad de Expresión de las Mujeres Indígenas en Guatemala” Report to CEDAW, October 2017. Accessible at https://www.culturalsurvival.org/sites/default/files/CEDAW_libertad%20de%20expresion%202017.pdf

¹⁰ Camp, Mark. “On the Air”. Cultural Survival Quarterly, June 2010. Accessible at <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/air>

This action by ASEP to deny Indigenous communities' licenses for radio frequencies amounts to discrimination against Indigenous Peoples and effectively limits the rights of men, women, and youth to their freedom of expression and the enjoyment of their culture, languages, and traditions. The facilitation of Indigenous communities to access their own forms of media is a step that Panama could have taken to implement CRC recommendations from the last review; including 81. to ensure Indigenous children receive education adapted to their culture, history and languages; 38.a to strengthen all opportunities for children and adolescents to express their views; 38.c to take into consideration the special linguistic needs of Indigenous children; and 34.c to adopt a comprehensive policy to address the rights of Indigenous children including investment in services and infrastructure in Indigenous territories and rural areas. However, the state of Panama failed to do so.

B. Health

Indigenous people's access to basic health care is alarmingly scarce, which is problematic for children who need this care in the prime of their physical and mental development.¹¹

A leading health issue among Indigenous children in Panama is malnutrition. The ethnic disparity in malnourished children is seen as 16-19% of all Panamanian children suffer from malnutrition, but approximately 50% of Indigenous children suffer from malnutrition, largely in the Ngobe-Buglé region.¹² Indigenous children are 3 to 5 times more susceptible to chronic malnutrition than non-Indigenous children.¹³ The infant mortality rate for Indigenous children is between 35.2% and 62.3%, around three-times greater than the national average.¹⁴

Infant mortality, child malnutrition, and poor child health are intricately related to access to healthcare for Indigenous women while pregnant, giving birth, and as mothers. In rural, Indigenous regions of Panama, only 29.1% of births occur in birthing institutions.¹⁵ Indigenous women face serious barriers to access to health care services and discrimination within health care facilities.

One barrier to access to health care services that Indigenous women face is the lack of quality health care facilities in rural areas. Many Indigenous women have to travel far from their homes

¹¹ "Children of Panama: Realizing Children's Rights in Panama." *Humanium*, www.humanium.org/en/panama/.

¹² Persson, Svante. *Fighting Malnutrition with Education and Food Security among Panama's Indigenous Population*. FOMIN Multilateral Investment Fund Member of the IDB Group, 27 Jan. 2016, www.fomin.org/en-us/Home/FOMINblog/Blogs/DetailsBlog/ArtMID/13858/ArticleID/3335/Fighting-malnutrition-with-education-and-food-security-among-Panama%E2%80%99s-Indigenous-population.aspx.

¹³ <http://www.diaadia.com.pa/el-pa%C3%ADs/19-de-ni%C3%ADos-ind%C3%ADgenas-de-panam%C3%A1-sufren-desnutrici%C3%B3n-cr%C3%B3nica-274753>

¹⁴ "Children of Panama: Realizing Children's Rights in Panama." *Humanium*, www.humanium.org/en/panama/.

¹⁵ <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0154388>

into cities in order to obtain quality health care services. Not only does this cost more financially, it is also very taxing for the women and children to travel far when they are sick.

Another barrier is a lack of culturally and linguistically appropriate care. General Recommendation 34 under the Convention on the Rights of Women specifically encourages State parties to safeguard rural women's right to adequate healthcare that is culturally acceptable to them, and that health care information be widely disseminated in local languages and dialects through several media. Yet, Indigenous mothers in Panama who do not speak Spanish often have difficulties communicating symptoms to health care professionals and many times they are not allowed to be accompanied into examination rooms by family members who speak Spanish. In a study of Indigenous mothers who did give birth in an institutional setting in Panama, the likelihood that an Indigenous woman would return to the hospital for subsequent treatment was tied most sharply to perceived levels of discrimination, whether she was allowed to be accompanied by a community health worker (traditional midwife), and allowed to choose their birthing position.

C. Forced Labor

Panamanian law directly permits minors to work in hazardous environments, which enables forced child labor to persist. For example, minors under the age of 16 are legally permitted to "engage in hazardous work," and the law provides no sanctions for violations for the type of hazardous work children are not legally permitted to engage in. Even though the Panamanian government, in 2013, increased its efforts to eliminate forced child labor, like training more labor inspectors, the statistics continue to frustrate.¹⁶

Forced child labor is most widespread in Indigenous regions because barriers for Indigenous children make them especially susceptible to defenselessness. For example, their poor access to education, to which they often travel long and precarious distances, leaves Indigenous children open to kidnapping, or even just deterred from making the journey in place of working.¹⁷ These challenges that make staying in school so difficult eventually lead to approximately 25.5% of Indigenous children, between 5 and 17, forced into child labor.¹⁸

The government has ratified international conventions on child labor, such as ILO C. 138, ILO C. 182, UN CRC, UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and Palermo Protocol on Trafficking in Persons.¹⁹ However, children are still victims of forced engagement in the worst, most hazardous forms of child labor.²⁰

¹⁶ "Panama: Moderate Advancement." www.refworld.org/pdfid/5448a8530.pdf.

¹⁷ "Panama: Moderate Advancement." www.refworld.org/pdfid/5448a8530.pdf.

¹⁸ "Country Analysis: Country Profile." *Global March*, Global March International Secretariat, globalmarch.org/Child-Labour-Domestic/panama/country-analysis.php.

¹⁹ "Panama: Moderate Advancement." www.refworld.org/pdfid/5448a8530.pdf.

²⁰ "Country Analysis: Country Profile." *Global March*, Global March International Secretariat, globalmarch.org/Child-Labour-Domestic/panama/country-analysis.php.

D. Land Rights

The government consistently fails to protect Indigenous citizens' land rights. Instead, the government prioritizes large-scale national development projects, which lead to human rights abuses with harmful impacts on children, such as displacement without compensation, violent eviction, food insecurity, and loss of cultural and spiritual sites, among others.²¹

One such case is construction of the Barro Blanco Dam on the Tabasará River. When structurally complete, the dam, operated by Honduran company GENISA, is set to create a 258-hectare (1 square mile) reservoir within the province of Chiriqui. It will flood 6.7 hectares (16.5 acres) belonging to the Ngäbe-Buglé *comarca* — a semi-autonomous region located a few miles upstream of the dam.²² Its construction has not upheld standards set out in the UN Declaration on the Rights of Indigenous Peoples, and has lacked a thorough and consistent implementation of the right to free, prior and informed consent from local Indigenous peoples. Ngobe-Bugle Indigenous congress is itself deeply divided over the approval of the dam, broad disapproval at the community level has sparked numerous protests.²³ “Barro Blanco...does not meet the requirement of sustainable development. It violates the territorial rights of the Ngäbe people, and blatantly disrespects human rights,” notes Panamanian Environmental organization Alliance for Conservation Development executive director Osvaldo Jordan.

In its test phase of flooding the reservoir in March of 2017, the dam flooded some Ngobe-Bugle land, crops, eleven homes, and spiritual sites of petroglyphs and three ancestral cemeteries.²⁴ Inundated forest have already started decaying, destroying local ecosystems. As of November 2017, the 28-megawatt dam has since entered into full commercial operation. Community member and anti-dam activist Manolo Miranda explained in November 2017 that the reservoir has made a deep psychological impact on the communities. It has impeded their mobility, flooded their crops, and bred swarms of mosquitoes that have transmitted disease among the elderly and young children. Miranda has also been the target of criminalization attempts. In July GENISA accused Miranda and two other Ngäbe-Bugle leaders of instigating project delays and causing financial losses during protests at Barro Blanco's entrance in July 2015. On September 20 2017, a judge acquitted all three defendants.²⁵

E. Violence against Human Rights Defenders

As Indigenous human rights and environmental defenders face violence during protests, their families, particularly children, are left most impacted.

²¹ https://www.culturalsurvival.org/sites/default/files/media/panamaupr_2014.pdf

²² <https://news.mongabay.com/2017/03/panamas-barro-blanco-dam-to-begin-operation-Indigenous-pleas-refused/>

²³ <https://www.culturalsurvival.org/news/panamas-barro-blanco-dam-threatens-ngobe-people>

²⁴ https://www.culturalsurvival.org/sites/default/files/media/panamaupr_2014.pdf

²⁵ <https://news.mongabay.com/2017/10/Indigenous-group-scores-legal-victory-as-dam-floods-their-lands/>

After Indigenous protesters caused the closure of the Inter-American Highway in February of 2012, both men and women were arrested and many were raped by the Panamanian police. On 5 February 2012, Luis Jimenez was crippled and three unarmed protesters were killed by the “rubber bullets, batons, tear gas, and shot-guns” used by the police. When the Ngöbe people blockaded the Pan-American Highway on January 30 2012, the police responded very forcefully and violently. A week following this, there remained a large number of police in Indigenous territories of Western Panama, including: Vigui, San Felix, Horconcitos, Chiriqui Grande. On March 6 2012, a committee of human rights groups published a report detailing the human rights violations committed by the state of Panama against the Ngöbe people during the protests earlier that year. Within this report, the following human rights violations were evidenced: “lethal weapons, excessive violence, shots fired from helicopters, unlawful detainment, raids of private homes without warrant, and the suspension of cell phone service blocking communication among activists within the Ngöbe-Buglé territory and calls outside the country.” During a rally against the Barro Blanco Dam project on 22 March 2013, police wearing plain clothes and ski masks allegedly attacked, killed, and cast into a ditch a Ngöbe protester, Onesimo Rodriguez. On April 25th 2014, seven Ngöbe people were injured when the police attacked a camp of protesters. None of these seven were able to receive medical attention at a hospital or medical center because they were afraid of being arrested.

IV. Relevant 2011 CRC Recommendations related to Indigenous children:

- *Allocate sufficient human, technical and financial resources for the roll out of the intercultural and bilingual education programme in all Indigenous territories as well as in other areas with Indigenous populations.*
- *The Committee reiterates its recommendation that the State party take all necessary steps to address and prevent the marginalization and discrimination of Indigenous and Afro-Panamanian girls and boys, that they receive health services and education adapted to their culture, history and languages, that they enjoy adequate standard of living. It also recommends that the Convention and its Optional Protocols be translated into the main Indigenous languages. The Committee further recommends that the State party ratify ILO Convention 169 on Indigenous and tribal peoples in independent countries.*
- *Strengthen the opportunities for children and adolescents to freely express their views in all matters affecting them.*
- *Take into consideration the special requirements and linguistic needs of children with disabilities, Indigenous and migrant children, and other children in situations of vulnerability.*
- *Adopt a comprehensive policy and plan of action to positively address the rights of Indigenous children, including investment in services and infrastructure in Indigenous*

territories and rural and deprived urban areas in order to improve the socio-economic situation of Indigenous people in general, taking into account the Committee's general comment No. 11 (2009) on Indigenous children and their rights under the Convention.

- *Ensure prior consultation to Indigenous people, including children, on investments likely to affect their rights, especially in the cases in which relocation of Indigenous peoples is considered necessary and other cultural assets and traditions may be affected.*

V. Other UN Body Recommendations

1. UPR Recommendations

- Intensify the necessary measures to guarantee the right of all children to have their birth registered, in particular children of African descent, Indigenous children and those who live in rural and border areas. - **Mexico***
- Address difficult access to birth registration procedures, particularly for children of African descent, Indigenous children and those living in rural and border areas. - **Nigeria***
- Take measures to overcome the difficulty of access to birth registration procedures, particularly for children of African descent, Indigenous children and children living in rural and border areas. - **Haiti***
- Redouble efforts to enhance the positive results in the area of economic, social and cultural rights to provide more benefits to the most vulnerable populations, in particular children, Indigenous peoples, people of African descent and the rural population. - **Peru***
- Address the root causes of child labour by drawing up a cash-for education programme or a similar programme that is aimed at reducing poverty and guaranteeing children's right to education, with a specific focus on rural areas and Indigenous communities. - **Netherlands***
- Continue efforts aimed at promoting the rights of children, in particular children belonging to Indigenous groups and children with disabilities and HIV/AIDS. - **Ukraine***
- Take appropriate measures to end illegal child labour, not least concerning Indigenous children. - **Sweden***
- Adopt administrative, budgetary, legislative and awareness-raising measures that ensure the right to birth registration of children of Indigenous or African origin and from rural areas. - **Mexico***
- Take all measures to ensure that Indigenous children can fully exercise their rights and establish support programmes for migrant children. - **Honduras***

VI. Questions

1. What steps will the Government of Panama take to better protect and fulfill the rights of Indigenous children?

VII. Recommendations

Cultural Survival urges the government of Panama to:

1. Ensure culturally and linguistically appropriate care for Indigenous women during pregnancy, birth, and as mothers, including by enacting policies that Indigenous women are allowed accompaniment by a traditional birth attendant in institutional settings.
2. Increase its efforts to combat impunity of human rights violations against Indigenous Peoples and persons of African descent, and desist from using violence against Indigenous protesters.
3. Facilitate the licensing of Type B community radio frequencies to Indigenous communities to encourage the freedom of expression of youth, and educational rights-based radio programming in Indigenous languages via community radio in rural areas.
4. Ratify ILO Convention No. 169, concerning Indigenous and tribal peoples (as recommended by Special Rapporteur on the Rights of Indigenous Peoples in his 2014 Report on Panama), and the Ibero-American Convention on the Rights of Young People
5. Take operational steps to implement the United Nations Declaration on the Rights of Indigenous Peoples, including the recognition of the right to land and natural resources of all Indigenous peoples in Panama.
6. Conduct prior consultations with Indigenous communities, as required by international standards, in relation to all plans and projects that might affect them, in particular when it comes to large-scale projects such as hydroelectric dams and mining activities and regarding national plans and projects to reduce emissions from deforestation and forest degradation. This should include introducing legislation upholding FPIC, and including FPIC provisions in relevant mining, hydro-electric, and forestry codes (see *Recommendation b in the UNSR report on Panama*).