

# A PROCESS FOR THE SOCIAL AND ECONOMIC SUSTAINABLE DEVELOPMENT OF PEOPLE OF AFRICAN DESCENT IN THE AMERICAS AND THE CARIBBEAN

## COUNTRY REPORT ON PANAMA

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RESEARCH

# Panama Country Report 2022

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## Executive Summary

During the review period, Panama saw a smooth change of government and an extremely dramatic downturn in economic growth due to the coronavirus crisis. The May 5, 2019 general election resulted in an overall victory for the Partido Revolucionario Democrático (PRD). Seven candidates participated in the presidential election, including PRD candidate Laurentino Cortizo. With just a third of the vote in all four elections held that day, the PRD won control of the presidency, the National Assembly and the majority of municipal councils and boards. In the very close presidential election, Laurentino Cortizo was declared the winner with 33.4% of the vote, although runner-up Rómulo Roux of the Partido Cambio Democrático (CD), who received 31% of the vote, complained of irregularities. Roux eventually conceded, and the Electoral Tribunal declared Cortizo (sworn in on July 1, 2019) the winner. In the 71-member National Assembly, the PRD won 35 seats, in part through controversial maneuvering in the allocation of residual seats in multi-member constituencies. In the unicameral assembly, the PRD joined forces with the smaller party MOLIRENA (Movimiento Liberal Republicano Nacionalista), forming a governing majority with its five seats.

Despite being Latin America's frontrunner in economic growth and GDP per capita, Panama's economic transformation remains stuck in its long-learned pattern of economic growth (and corruption, which contributes to its negative image due to the government's unwillingness to combat it). Shortly after assuming office and claiming that government accounts had been left in serious disarray by the departing administration, Cortizo traveled to New York to personally promote a \$2 billion bond issue, ostensibly to cover budgetary deficiencies produced by improper accounting. The successful placement of bonds was followed by a new \$1.3-billion issue in November. These developments set the tone for the new government, which has increased debt levels at a worrisome pace. Much of the increase has served to fund government operations following the imposition of stringent measures to confront the pandemic. These measures, focused on preventing oversaturation of an already-deficient health infrastructure, caused serious hardships for a majority of Panamanians, as reflected by a 17.9% drop in GDP, a rise in unemployment to 18.5% and an increase in informality to nearly 53% of the non-agricultural labor force, according to the Comptroller-General's Office.

Despite heavy constraints imposed on the country's inhabitants, the coronavirus has dealt a big blow. Official figures for contagion and death are several times higher than global averages. While a collapse of the health system may have been averted, Panama has not escaped the distress and trauma of the pandemic. In addition to occasioning severe economic disruption and preventing the achievement of the new government's purported goals, government measures restricting basic rights were adopted without regard to constitutional procedure. Their implementation at the hands of Panama's increasingly militarized security services has been arbitrary and dismissive of elementary human rights. Social rights, especially access to education, have also been severely compromised on account of policies

imposed without regard to human development considerations. Civil society organizations initially reacted timidly to perceived government abuses; the tone and intensity of their criticism, however, increased in subsequent months, riding a wave of growing citizen frustration with mismanagement and rising corruption.

- **BTI 2022: Media kit**
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## History and Characteristics

In 2021, Panama commemorated the bicentennial of its independence from Spain, after which it immediately joined Colombia on its own volition. After several attempts at secession throughout the nineteenth century, in 1903, a group of patriots succeeded in establishing a Panamanian state. This long-cherished goal, however, was only achieved through support from the United States, which subjected the small republic to its overpowering influence with the objective of dominating the transit zone to build and operate a trans-isthmian ship canal. Tensions between Panama and the United States continued throughout much of the twentieth century, culminating in bloody flag riots in 1964 and bilateral treaties reached in 1977 that mandated the transfer of the canal to the isthmian republic on December 31, 1999. U.S. influence, however, has remained an important force in Panama, with Washington exercising hegemony in matters of interest to its policymakers, especially in the areas of security, international finance and foreign relations.

A military coup interrupted constitutional government on the isthmus in 1968 and inaugurated an authoritarian regime which remained in power until it was dislodged by a U.S. invasion in 1989. Panama's current political system originated with the military dictatorship, especially its 1972 constitution, still in force (although modified in 1978, 1983, 1994 and 2004). Emanating from this constitution are a party system dating to 1978 and an electoral system instated in 1983, both of which have significantly helped shape the political system, including the role of the Partido Revolucionario Democrático (PRD), the political arm of the military regime, as the system's dominant party.

After the U.S. invasion, Panama transitioned to democracy in 1989 – 1994, under the leadership of President Guillermo Endara of Partido Panameñista (PPAN, then called “Arnulfista”). Since then, civil society has grown considerably, both in terms of the number of NGOs and affiliates active in the country, although it lacks the presence, vibrance and credibility enjoyed by its counterparts in advanced democracies. Under the aegis of the 1972 constitution, Panamanian democracy acquired its most relevant characteristics. These characteristics, which have remained in place throughout the democratic period, include executive rotation through elections at five-year intervals, no tampering with the president's constitutional term of office, the paramountcy of “partyarchy,” clientelism and vote-buying (especially in the National Assembly and local elections).

Following Endara, six presidents have alternated in power without any disturbance. The PRD has held the presidency two times (1994 – 1999; 2004 – 2009) until its return in 2019 and

controlled the legislative branch throughout most of the democratic period based on its large and influential bloc in the unicameral National Assembly. Additionally, it has commanded a majority of municipal councils throughout the country and dominated the national bureaucracy, which is staffed primarily by its members and sympathizers. Two other presidents since 1994 – Mireya Moscoso and Juan Carlos Varela – are members of the Partido Panameñista. A third-party candidate obtained the presidency in 2009, when Cambio Democrático (CD), a personalist grouping formed in support of the presidential aspirations of businessman Ricardo Martinelli, succeeded in getting him elected. In recent years, satisfaction with the democratic system has declined and an anti-system tendency has gained traction that is fueled by frustration with corruption, socioeconomic inequities and poor government services.

Panama's democratic period from 1989 to 2019 was characterized by continued economic growth that was stimulated by foreign investment, public works, increased trade, international services provided by local suppliers and, after 1999, the operation of the country's emblematic asset, the canal. This event represented a massive milestone in Panama's struggle to assert national sovereignty throughout its territory. A new lane added to the canal in 2016 has made it possible to accommodate larger ships and thereby bring in new income as well as payments to the national treasury. The combined impact of a real estate boom and infrastructure developments underway since the early 2000s led to double-digit growth rates in 2007 and 2011. According to the World Bank, average growth was 7.2% between 2001 and 2013, with rates beginning to decline starting in 2014 and reaching 3% in 2019.

## Political Transformation

### Stateness

Panama's crime levels have risen in recent years, as the increase in indicators, including homicide rates, has shown. According to the Attorney General's Office, 439 homicides took place in 2018, representing a rate of 10.5 per 100,000 population. This figure rose to 480 in 2019 (11.3 per 100,000 population) and 500 (11.6) in 2020.

The Attorney General's Office reported 89 murders in January-February 2021; at this rate, Panama will end the year with approximately 534 murders (12.3 per 100,000 population). While these numbers are lower than the statistics of other countries in the region, a homicide rate above 10 per 100,000 population counts as an "epidemic" in the literature (UNODC 2019).

Panama's authorities maintain that most homicides are mafia-related. The country remains a point of trans-shipment for narcotics and its banking center continues to be singled out by foreign entities (including the U.S. government, the European Union, individual European countries, and the OECD) as being vulnerable to money-laundering from illicit activities.

In this regard, the U.S. Bureau of International Narcotics and Law Enforcement Affairs emphasizes the use of Panama's territorial waters and shorelines, as well as its border with

Colombia, by criminal groups trafficking people and narcotics. The use of containers transiting the canal by criminal enterprises smuggling drugs and other items is also noted. Crime syndicates, assures the report, “exploit Panama’s strategic location, dollarized economy, and favorable, inadequately enforced laws to launder proceeds of illegal activities via bulk cash smuggling, shell companies and Panama’s free trade zones.”

Certain urban areas, especially marginalized districts, as well as certain insular locations and littorals, are under the control of local criminal bands and drug mafias. According to the Ministry of Security, there are at least 159 gangs operating throughout the country, chiefly in the provinces of Panamá (90), Colón (33) and Chiriquí (19). Police are reticent to intervene either because they are in collusion with such groups or they fear retaliation.

Connections between government officials and illegal organizations were highlighted by the discovery in September of 2020 of illicit drugs in the possession of the governor of the San Blas indigenous reserve. The official was removed by President Cortizo, who had appointed him shortly before. Subsequently, at least one police officer was identified as an informant for a criminal gang dismantled in early April 2021.

Panama’s capital was listed as a high-threat crime location by the U.S. Department of State Overseas Security Advisory Council (OSAC). OSAC’s 2020 Crime and Safety Report also warned of criminal activities in urban areas in the provinces of Chiriquí, Colón and Herrera.

Urban locations such as the city of Colón, the district of San Miguelito, and areas in Arraiján district, alongside neighborhoods in the capital city such as Curundú, El Chorrillo, Juan Díaz, Panamá Viejo, Pedregal, Río Abajo, Santa Ana, and parts of Calidonia, are considered to be high-crime sectors characterized by “increased gang activity with a lower police presence.” Additionally, OSAC underscored the presence of criminal organizations along the Mosquito Gulf coast on the Caribbean Sea and Darién province bordering Colombia.

According to the Comptroller-General’s Office, the combined estimated population of these areas on July 1, 2020 was 1,014,224, representing 24% of Panama’s estimated population on that date. These areas cover approximately 29% of the country’s territory.

#### Monopoly on the use of force

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All individuals born on Panamanian territory are considered citizens from birth (jus solis). Their accreditation as citizens is normally not an issue. In addition to those born in the country, according to Article 10 of the constitution, foreigners may opt to become citizens after five consecutive years of residence in Panama or three consecutive years of residence, as long as they have a Panamanian spouse or children born in the republic to a Panamanian father or mother.

The prevailing version of the nation-state is normally accepted by most sectors, with exceptions occurring among some indigenous groups, often in response to complaints of government abuses, land-grabbing by outsiders on their reservations, or poor public services. In April 2021, the Panamanian flag was lowered in Uggubba, Guna Yala, in protest of the government’s coronavirus subsidy scheme.

Immigrants, many of them from Venezuela, Colombia, Nicaragua and other neighboring countries, commonly encounter obstacles obtaining legal residency and citizenship. These include excessive bureaucracy, prolonged waiting periods, exorbitant fees and institutionalized bribery requests by immigration officials. As a result of these hurdles, many live in the country precariously, trying to earn a living without legal authorization or protection, which exposes them to continuous police harassment, including extortion, sexual abuse and brutality.

#### State identity

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Freedom of worship and a majoritarian affiliation to Catholicism are constitutionally recognized (Art. 35). The constitution prohibits discrimination based on religious practices. It also limits the public positions that religious leaders and members of religious orders may hold to those related to social assistance, education and scientific research. The constitution forbids the formation of political parties based on religion, as well as discrimination against public servants based on their religious practices or beliefs.

A respect for “Christian morality” serves as a constitutional and legal parameter to authorize certain activities, particularly religious practices, entertainment activities and public gatherings, although prohibitions on this basis are not normally invoked. Religious leaders, especially from the Catholic Church (but also from evangelical denominations), exercise influence over the political establishment on matters of interest to the organizations they represent, particularly, reproductive health and education issues.

#### No interference of religious dogmas

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Panama’s administrative structures provide most basic public services throughout the country, but their operation is to some extent deficient. Access to health, education, water, sanitation, security and justice at all levels is normally problematic owing to precarious staffing, inefficiencies, budget constraints and widespread corruption. The absence of transparency in all areas is a serious problem affecting the state’s performance as a provider of goods and services.

According to the World Bank (2020), 94% of the total population has access to at least basic drinking water services, but only 86% in rural (including indigenous) areas. According to the WHO (2020), 85% of the population has access to at least basic sanitation services (93% in urban areas, 65% in rural areas). Access to electricity is available to 95.8% of the total population (WDI 2019): 99.7% in urban and 87.7% in rural areas. Medicine shortages and long appointment delays are recurrent complaints with regard to the public health system. The percentage of births attended by skilled health personnel is 93%, which conforms to the regional average.

Insecurity is a problem in many localities, as noted above and justice remains inaccessible to large portions of the population, especially at the community level. This problem was exacerbated by the replacement, in 2016, of local magistrates (“corregidores”) with justices of the peace, who have generally proven unable to facilitate solutions to domestic and neighborhood violence problems.

There are significant differences between urban areas (where about 70% of the population lives) and rural areas, with high poverty levels prevailing on indigenous reservations. According to World Bank data, life expectancy among indigenous men and women living on their territories (67.8) is 11 years less than among the rest of the population (79.0), and the maternal mortality rate is four times higher among indigenous women living on their territories than the national average for all women (392 in Darién vs. 35.4 in the country as a whole, per 100,000 births).

Additionally, over 50% of the estimated 4.3 million inhabitants live in the cities of Panama and Colón, and in urban and semi-urban areas within a radius of 50 kilometers east and west of the Panama Canal. This generates problems in the design of public policies, resulting in poor transportation services, a scarcity of drinking water, lack of sewage treatment, insufficient health services and fragile citizen security.

Measures imposed by the government to confront the coronavirus pandemic caused a shutdown of the educational, health and justice sectors. Services in these and other areas were only partly restored starting in mid-2020, with public education perhaps being the most affected sector. Very inadequate online instruction modalities replaced the country's already deficient educational provision and have failed to fully reach the student population.

Basic administration

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## Political Participation

General elections to choose the country's president, 71 National Assembly deputies, 81 district mayors and 681 municipal council members were most recently held in 2019. Since the country transitioned to democracy in 1989 – 1994, multiparty elections have taken place punctually every five years to fill all elected offices according to the constitution, with no delays. According to the Organization of American States (OAS) Election Observation Mission (EOM), the 2019 elections were overall free and fair, although shortcomings remain. The 2019 elections were the first since the 2017 reform of the Electoral Code, which, on the recommendation of previous OAS EOMs, aimed to create greater equality and transparency in electoral competition and reduce its immense monetary costs. The reforms addressed political financing, the structure of electoral justice, the organization of primaries and the regulation of electoral propaganda. They limited the amount of money each candidate could spend and the amount each donor could contribute. In addition, each election campaign is required to publish the names of its donors and the amounts of donations. To avoid excessive spending, the campaign was also limited to two months.

Independent candidates have been increasingly allowed to participate, although registration procedures are cumbersome, and allocated funds continue to benefit mainly political parties. Independents repeatedly complained of discrimination against them and arbitrary filing impositions that placed significant obstacles to their securing candidacies. Women's and disabled groups also complained that several aspects of the voting process discriminate against them. Although the electoral law provides for gender equality, it is watered down by exemption clauses, so that only 16 of the 71 seats in the National Assembly are filled by



women. Disabled groups complain that voting places are not equipped with facilities to accommodate their needs.

Voting takes place in a heavily clientelistic environment where vote-buying is commonplace, especially for National Assembly and municipal elections for mayors and country representatives. It is accurate to say that the expectation of receiving economic compensation is a more efficient predictor of electoral outcomes than ideological attachments (of which there are very few). Another problem is the repeated changes in electoral regulations and their inconsistent application, especially the procedure for allocating seats, which has been “reformed” in almost every election since 1916. As the OAS EOM notes, the system of quotients, semi-quotients and residual votes has caused confusion among both political parties and voters. Another reform is being discussed in 2021 to introduce the D’Hondt method.

#### Free and fair elections

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Generally, elected political representatives in Panama have the effective power to govern. After the abolition of the armed forces by constitutional amendment in 1994, the most important potential veto power disappeared. Notwithstanding, the United States continues to exercise influence over Panama’s external relations and certain internal matters of interest to Washington, DC, including security. The government of Martín Torrijos (PRD, 2004 – 2009) initiated a policy, continued by his successors Ricardo Martinelli (CD, 2009 – 2014), Juan Varela (PPAN, 2014 – 2019) and Laurentino Cortizo (PRD, 2019 –), of strengthening and militarizing the national security services. Acting as veto players, security services prevent any oversight over or democratic control of their organizations. Additionally, they monopolize security policy, imposing arbitrary, inconvenient or pointless measures (such as road blocks throughout the country) on the civilian population. Large business interests and the Catholic Church, as noted above, may also influence policy in matters of interest to them.

#### Effective power to govern

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The constitution guarantees freedom of assembly (Art. 38) and association (Art. 39), subject to government approval, provided such associations do not promote objectives contrary to “morality,” unlawful goals or racial discrimination. Measures dictated by the government with the ostensible purpose of managing the coronavirus emergency have served to curtail public protests, making use of excessive force against demonstrators.

Generally, political and civic groups have been able to operate free of unwarranted state intrusion or interference in their affairs. During the pandemic, however, to intimidate protesters, the government made threats against demonstrators based on decrees issued by the executive curtailing the exercise of civil rights. These decrees banned public meetings, threatening to impose heavy fines on or incarcerate those who violated the rules.

Measures restricting freedom of assembly and movement, imposed without regard to the constitutional procedure in place for such suspension (Art. 55), did not meet the requirements of legality, necessity, proportionality and non-discrimination. By the end of January 2021, mobility and meeting rights had been reinstated, though a national curfew (9 p.m. to 4 a.m.) was still in place.



## Association / assembly rights

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Article 37 of the Panamanian constitution recognizes freedom of expression, but statements threatening the honor or reputation of individuals, as well as “social security” or “public order,” are subject to “legal responsibilities.” These “responsibilities” are contemplated in the Criminal and Civil Codes, and have been invoked in judicial procedures against journalists and media outlets. Through these legal means, freedom of information legislation that is in place may be rendered ineffective.

In July 2020, a judge ordered the seizure of assets up to \$1.13 million belonging to the daily, La Prensa, to secure proceedings in a civil suit instated by former President Ernesto Pérez Balladares (PRD, 1994 – 1999) against the newspaper. Such measures, in addition to skewed allocation of government publicity contracts, compromise the capacity of Panama’s media to serve as active and impartial platforms for the free flow of information and opinions.

Additionally, public sector opacity, especially in areas concerning security, often blocks access to public information. In particular, access to data concerning the pandemic, including government procurement, contracting and expenditures, has been problematic.

Individuals protesting the government, especially during the coronavirus emergency, have been harassed or physically threatened by the National Police and other agencies called in by the government to maintain public order. Minorities, including same-sex couples, have also encountered harassment from security forces, revealing significant intolerance to diversity.

Although Panama’s printed media generally provide for a plurality of opinions, radio and, especially, television outlets do not broadcast the same amount of pluralism. In the Reporters Without Borders 2020 press freedom report, Panama ranks 76th among 180 countries. The ranking adds that

journalists who criticize government policies or cover corruption-related issues – especially international financial scandals – may find themselves in trouble with the judiciary. Some journalists face legal proceedings for defamation, which are often punishable by fines.

The Journalists’ Forum has denounced the increase in legal actions against the media, journalists, and opinion-makers (influencers), as a means of intimidation to promote self-censorship. In October 2020, the digital platform FOCO, an alternative media outlet founded a year ago, requested precautionary protection measures from the Inter-American Commission on Human Rights in response to “telephone threats, cyber harassment, lawsuits and criminal complaints” that affect its members’ exercising their freedom of expression.

## Freedom of expression

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## Rule of Law

Panama is a presidential democracy constitutionally organized according to the republican format. The separation of powers is described in the Panamanian constitution in Titles V, VI and VII. In practice, however, the executive branch has considerable powers over the legislative and judicial branches. With regard to “constraints on government powers,” Panama’s score of 0.53 on a scale of 0 to 1 in the World Justice Project’s Rule of Law Index 2021 is close to both the global and Latin American averages (0.55 and 0.53, respectively); this is also true for the “limitations by the legislature” subfactor, while Panama’s score for “limitations by the judiciary” (0.45) is below the global and regional averages (0.54 and 0.53, respectively).

The capacity for checks and balances between the executive and legislative branches also depends on the weight of the president’s party in Congress, as was demonstrated during a period when the government was divided (2017 – 2019). In the 2019 elections, President Cortizo’s coalition won 35 out of the 71 deputy seats in the Assembly, but due to the coalition’s splitting into factions, there is friction with the executive. For example, the president has vetoed several bills, including initiatives by ruling party deputies. There are allegations that these discrepancies might be “resolved” by making concessions to members of parliament, for example, through government appointments and contracts, or by appointing family members or other relatives of members of parliament to the government bureaucracy or the foreign service.

The Supreme Court (CSJ) has the power of judicial review; additionally, it hears any cases against high officers of the state, including cabinet secretaries and National Assembly deputies. The court consists of nine justices appointed by the executive and ratified (or rejected) by the National Assembly for a period of 10 years. In recent years, complaints have increased against the nominating procedure for Supreme Court justices, claiming that it has served to pack the CSJ with incompetent presidential cronies. The Supreme Court and other independent bodies have traditionally been a rather weak counterweight to the executive branch, even if they sometimes rule against it. In October 2020, the Supreme Court recognized the land rights of the indigenous Naso people, overriding a veto by former President Varela of a law passed by the National Assembly in 2018.

Invoking “the constitution” – but without explicitly referring to its Article 55, which is the only constitutional basis for restricting several fundamental rights – the executive branch imposed a state of emergency on March 13, 2020. The executive decree did not set a date for the end of the state of emergency, which was still in effect at the end of the review period. Despite the constitutional requirement to this effect, the National Assembly has neglected its obligation to review the suspension of fundamental rights. Complaints presented before the Supreme Court against the government’s emergency decrees have been either shelved by the judges or dismissed in favor of the executive. However, the Supreme Court declared the controversial gender-based mobility restrictions of June 2020 unconstitutional, albeit too late, as the measures had already expired; observers assume, however, that the ruling will set a precedent for similar situations in the future.

Separation of powers

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The judicial system consists of the judiciary, headed by the Supreme Court and the Public Ministry, headed by the Offices of the Prosecutor-General and the Solicitor-General. Responsibility for investigations lies with the National Police, after President Martín Torrijos (PRD, 2004 – 2009) withdrew that function from the Public Ministry and assigned it to the security forces. The judicial system is sufficiently differentiated territorially and functionally, but it suffers severely from corruption and a lack of merit-based professionalism, which most international representatives and observers, including the U.S. government, deplore.

Panama's judiciary is notoriously corrupt and beholden to the executive and other important power-holders, including party leaders, influential attorneys and large businesses. Bribery is informally institutionalized as a means of obtaining favorable rulings. Judges at all levels are poorly qualified and venal. They normally remain oblivious to, or ignorant of, international standards and basic developments in international law (especially in human rights matters). Concerning civil justice, Panama ranks slightly below the global and regional averages in World Justice Project's (WJP) Rule of Law Index 2021.

#### Independent judiciary

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Officeholders, no matter what level of government they work in, who break the law are seldom prosecuted, except in rare cases as a result of political vendettas. This is a characteristic dating back at least to the military dictatorship, when the judiciary was subordinated to the National Guard. A huge \$100 million fraud against the Social Security Administration, in which key government and ruling party (PRD) figures were involved in 1982 – 1983, was never cleared up, not even during the democratic period. Needless to say, the squandered money was never recuperated.

Such practices exemplified by the Social Security fraud have been replicated by recent, democratically elected governments. A case in point was the Brazilian construction conglomerate, Odebrecht, accused of bribing government officials since its arrival in Panama during the administration of Martín Torrijos (PRD, 2004 – 2009). Although Odebrecht affirmed it had engaged in bribery to obtain government contracts, it reached an accord with the Public Prosecutor's Office to pay a small fine in exchange for closing the case.

The end result is that Odebrecht has not paid its fine, although it continues contracting with the government, and that except for former President Ricardo Martinelli, government officials who received bribes in exchange for their support assigning contracts to the company under at least three administrations, have yet to be brought to justice.

The result of such actions is a general climate of impunity for politicians and well-connected individuals that perpetuates corruption and has bred cynicism and frustration in society.

#### Prosecution of office abuse

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Civil rights are recognized in the constitution but not properly respected and protected, mostly due to an inefficient judiciary. The constitution prohibits torture (Art. 28), protects privacy (Arts. 26, 29), and establishes equality before the law (Art. 20), as well as due process under the rule of law (Art. 32).

Despite constitutional provisions, de facto discrimination against Afro-Panamanians, indigenous peoples, women and the LGBTQ+ community remains a concern; the latter were particularly affected by the gender-based mobility regulations that were in place for five months during the 2020 lockdown. Another problem is police abuse during security operations, with little or no redress in most cases. Investigative units within the security forces are not independent or functional and access to justice in these and other cases is ineffective. Representatives of civil society and the media repeatedly criticize the “concentration of power” that the state has granted to the police, in which a repressive pattern of behavior has been established. The extent of impunity is unclear, as the government tends to be nontransparent with regard to cases of police abuse, and no meaningful statistical data are available. Confinement measures to confront the COVID-19 pandemic have been particularly harsh. Enforcement of these measures by security forces has been arbitrary and abusive, and has given them additional opportunities for extortion and bribery.

#### Civil rights

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## Stability of Institutions

Democratic institutions perform their functions in principle, but often are inefficient due to corruption and lack of transparency. Friction among branches of the government has normally been avoided through executive dominance over other organs based on a system of rewards and, occasionally, punishments of members of the National Assembly, the Supreme Court, other agencies and municipal governments.

The coronavirus emergency has made evident that democratic institutions in Panama malfunction. Arguably to confront the pandemic, the executive decreed suspensions in the exercise of several civil rights without regard to the constitutional procedure established for exceptional circumstances (Art. 55). The executive decrees made no reference to the constitution, although the suspension of the exercise of civil rights is, in Panama as in all democratic regimes, a constitutional matter of the utmost importance.

The National Assembly, constitutionally charged with reviewing any suspension of the exercise of rights decreed by the government, has thus far neglected to hold the executive accountable for its constitutional violations. The Supreme Court, before which several lawsuits have been brought against the government's decrees ordering the suspension of rights, has delayed rulings to the point that most still remain pending. In the few cases it has heard, however, the court has ruled in favor of the executive, declaring the suspensions not unconstitutional.

#### Performance of democratic institutions

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Democracy and its institutions and rules are accepted in principle by the relevant actors in Panama, though they do not agree on whether or how they should be improved. Acceptance of the rules by dominant actors includes clientelistic multiparty elections every five years, dominance by the executive branch and disregard for checks and balances, as well as a low-intensity commitment to fighting corruption and money-laundering. A group of less dominant but increasingly relevant actors critical of the halfheartedly committed democrats

are too discordant to present clear alternatives for democratic improvement, but at least have enough power to prevent further deterioration. This became clear when President Cortizo announced in late 2019 the withdrawal of his constitutional reforms – intended to strengthen democracy but altered significantly by parliament to its advantage – and a promise to begin a new, more participatory process for defining constitutional and political changes. This came after massive protests against the reform made evident the deep dissatisfaction of civil society and minority political activists with a political elite perceived as corrupt.

Commitment to democratic institutions

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## Political and Social Integration

Political parties in Panama are, basically, clientelistic machines. Ideology does not feature prominently in Panamanian party system dynamics. A 2013 study of Panama's democratic culture based on Vanderbilt University's LAPOP project explicitly concludes that "no important ideological differences exist between Panama's political parties." Still, they have roots in society based on their clientelistic trajectories, as indicated by the relative longevity of the parties, the system's moderate electoral volatility and the enrollment in political parties of nearly half the voting age population.

After peaking at 43% in 2009 when a third-party candidate was elected president (Ricardo Martinelli), electoral volatility has oscillated between 20% and 30% in presidential elections. In National Assembly elections, volatility also peaked in 2009 (29%). Since then, it has ranged between 14% and 18%.

The party system is dominated by Partido Revolucionario Democrático (PRD), founded by military dictator Omar Torrijos in 1979. PRD traditionally enjoys the support of approximately one-third of Panamanian voters, but owing to a majoritarian, first-past-the-post electoral formula in place at the municipal and national levels – including for 26 of 71 National Assembly seats – PRD has succeeded in maintaining its hold over the political system in the democratic period.

Other parties in the system include Partido Panameñista (PPAN, founded in the mid-1930s), Partido Popular (PP, established in the early 1960s), Movimiento Liberal Republicano Nacionalista (MOLIRENA, 1982), Partido Cambio Democrático (CD, 1998), and Partido Alianza (2018). These parties have endured throughout the democratic period as a result of their participation in the spoils system.

Since the 2019 elections, two more parties reached the required number of adherents to apply for registration and two additional ones are collecting adherents with that intent. Approximately 1.4 million Panamanians – roughly half of the voting age population – are registered party members. Average participation in elections is 75% of the voting age population.

Party system

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Panamanian civil society consists of organized religious, professional and business organizations, unions, and various interest groups, including civic, environmental and cultural associations. Community organizations exist but, generally, lack strength. Social movements have occurred but normally fail.

The Catholic Church and the main business associations constitute the best organized and effective civil society groups. These are most likely to be represented in the political system. Even among these groups, however, strong particularistic interests prevail. As a result, civil society fails to attain broad social representation beyond certain narrowly defined objectives.

Unions tend to be hierarchical and dominated by their leadership, which often transacts with political parties (especially the PRD) to obtain personalist benefits for their leaders. The most belligerent labor organization is the Construction Workers Union (SUNTRACS), which has a track record of successful negotiation with business owners in their sector. This union is aligned with Panama's weak leftist movement, including a political party – Frente Amplio por la Democracia (FAD) – which lost its registry for the second time in 2019 after once again failing to reach the election survival threshold.

#### Interest groups

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Over more than two decades (1996 – 2020), support for democracy declined steeply from 75% to 35%, as indicated by the number of survey respondents who preferred a democratic system to any other political regime, according to Latinobarómetro 2020. This is significantly below the average of the countries surveyed in Latin America and the Caribbean (LAC), which is 49%. Concerning the “Churchillian” question, 57% of respondents agree that democracy may have problems, but it is the best system of government (LAC: 63%). Only 24% expressed some degree of satisfaction with the performance of Panama's democracy (which is however close to the LAC average of 25%).

An overwhelming majority of respondents (79%) felt that the country is governed for the benefit of a few – slightly higher than the LAC average (73%). Trust in the police (47%; LAC: 36%) and the electoral court (38%; LAC: 31%) was comparatively high, in contrast to the National Assembly (15%; LAC: 20%), the judiciary (23%; LAC: 25%), the executive (23%; LAC: 27%) and political parties (12%; LAC: 13%).

According to a poll by CIEPS, a local think tank, public perception of the performance of state actors has dropped precipitously as a result of the government's response to the pandemic. While in March 2020, 72% of those polled thought the executive performed either “very well” or “well,” by January 2021 the approval figure had plunged to 12%. The only state entity to increase its credibility was the Gorgas Memorial Laboratory, a medical research facility. In January 2021, 83% of those polled had a good opinion of the laboratory's performance, versus 77% in March 2020.

#### Approval of democracy

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Trust among citizens is very low (in an overall distrustful region). Only 12% of respondents in the 2020 Latinobarómetro survey – unchanged from the 2018 survey – said that the majority of people can be trusted, which is the regional average. As a result, solidarity and



interaction are low. Civil society organizations have a long tradition in Panama, as noted below (see “civil society traditions”). There are many civic, cultural and professional associations in Panama, but coordination among them is not always effective, and they enjoy a moderate level of trust – 40% of respondents surveyed by Latinobarómetro (2018) expressed trust in NGOs.

Social capital

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## Economic Transformation

### Socioeconomic Development

The 2020 Human Development Report, showing data for 2019, ranked Panama 57th on the Human Development Index (HDI), with a score of 0.815 (high human development). Of the 22 Latin American states, only Chile, Argentina and Uruguay had higher scores.

Panama, however, was more disadvantaged regionally in terms of other indicators. According to a government report, 19% of the Panamanian population lived in multidimensional poverty in 2018. The World Bank estimated the poverty level at 13% that same year. Extreme poverty encompassed 5.2% of the population – a higher portion than in Uruguay, Chile, the Dominican Republic, Costa Rica and Argentina.

There are important ethnic and gender dimensions to poverty in Panama. Among indigenous groups, which comprise nearly 12% of Panama’s total population, poverty levels were very high. In the indigenous territories, 86% of the population was classified as poor and 66% as extremely poor. Multidimensional poverty encompassed 70.9% of all Emberá women, 89.9% of all Ngäbe-Buglé women, and 93.7% of all Guna women.

These statistics point to high levels of inequality in the distribution of income and resources. Fifteen Latin American countries exhibited lower Gini indexes than Panama, which had the fourth worst income distribution in the region according to this indicator, after Brazil, Honduras and Colombia (no data for Cuba). With a gender inequality index (GII) value of 0.407, Panama ranked 12th among 22 countries in the region, though it improved somewhat faster throughout the past decade than most countries in the region. In 2018, inequality caused a 21.1% loss in human development.

Approximately 30% of the population lives in rural areas; of this population segment, as much as half operates in the subsistence economy.

Restrictions imposed as a result of the coronavirus emergency have caused a serious economic decline and significantly affected livelihoods throughout the country. According to the national statistics office, formal unemployment rose from 7% in August 2019 to 18.5% in September 2020, and informality climbed from 45% to 53% in the same period.



According to a survey by UNICEF, by December 2020, 76% of all Panamanian households had experienced a partial or total loss of income and 27% of all families lacked sufficient resources to satisfy their basic needs.

#### Socioeconomic barriers

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## Market and Competition

Though market competition operates under a solid institutional framework, its rules are not always consistent or uniform for all market participants. The isthmian canal is the best known component of Panama's economy worldwide. Since its transfer from U.S. administration beginning in 2000, revenue for the country has increased significantly. The waterway has generally operated satisfactorily on the basis of non-discrimination and service to vessels of all nationalities. In 2016, the Canal Authority inaugurated a new lane of locks to accommodate larger (post-Panamax) vessels. There are complaints, however, of nontransparent personnel recruitment policies and resistance to external scrutiny of its management and operations.

Panama remains an important banking center. Neither inflows nor outflows of funds are subject to restrictions. Banking regulations normally require reporting transactions above \$10,000 for money-laundering surveillance purposes. Starting a business takes six days and five procedures with a cost of 5.8% of GNI per capita, rather low figures by international comparison.

In terms of restrictions, Article 293 of the constitution stipulates that only Panamanian citizens or companies (with some exceptions) may participate in retail trade. At least 49 professional activities may only be exercised by Panamanians, especially in the health, legal and engineering sectors. In addition to sanitary, phytosanitary, health and security regulations, a system of government permits remains in place for the import of certain food products, including meat, rice, potatoes and onions, ostensibly to protect domestic production.

According to International Labor Office (ILO) statistics, the informal sector was estimated at 46.8% of total employment in 2019. According to the national statistics office, by September 2020 informality had increased to 53% of the workforce.

#### Market organization

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Competition legislation was introduced in 1996. At that time, a consumer protection and competition defense agency (currently named ACODECO) was created. Ultimately evolving into a large and inefficient bureaucracy, it has been notoriously incapable of protecting consumers against abuses, especially in the utilities sector (electricity supply, in particular).

Complaints of cartelization in certain crucial sectors, including pharmaceuticals, foodstuffs, electricity, agricultural supplies, telephony, cargo transportation and digital communication

are widespread. Judicial proceedings in this area (as in others) are cumbersome, costly, ineffective and prone to corruption, especially when important interests are involved.

The government provides numerous subsidies. Most of them consist of direct or indirect benefits to disadvantaged social sectors. Generally, Panama's subsidy policy is penetrated by clientelism. Urban transportation, electric power provision, agricultural production and certain industrial activities remain subsidized.

#### Competition policy

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Beginning with the Spanish domination, Panama's economy has historically been linked to the service sector. With a view to promoting economic diversification, protectionist measures inspired by import-substitution industrialization were introduced in the 1950s and subsequently. The country's governments, however, continued to promote the tertiary economy, which grew exponentially between 1970 and 1982 after the creation of an international banking center (see 7.4 Banking system).

Panamanian agriculture and industry enjoyed fiscal protections until the mid-1990s. With a view to getting Panama into the WTO, the Pérez Balladares administration (PRD, 1994 – 1999) began removing protective measures. Currently, foreign trade is widely liberalized, with uniform, rather low tariffs and few non-tariff barriers.

In 2019, simple average most favored nation (MFN) applied tariffs for agricultural and non-agricultural products were 4% and 11.9%, respectively. The highest maximum tariffs were in place for certain animal products (260%), dairy products (150%), and sugar and confectionaries (144%), in order to protect local agriculture and food manufacturing. These rates, however, applied to a small proportion of imports, as the sectors involved represented 1.7% (animal), 1.2% (dairy), and 0.3% (sugar) of total goods brought into the country.

There are no export limitations in place, although bureaucratic procedures and corruption constitute obstacles in this area.

#### Liberalization of foreign trade

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Legislation introduced in 1970 established the National Banking Commission (renamed Banking Superintendency in 1998) and created a framework for Panama's banking center. In February 2021, 59 banks operated in the center, including 40 general-license, 17 international-license, and two official (state) banks.

According to the World Bank, Panama's bank capital to assets ratio was 12.5 in 2018 (no data available for 2019). The average among developing countries, as reported by the World Bank, was 11.7, indicating strong capitalization levels in Panama.

The ratio of bank non-performing loans to total loans was 2.0 in 2019. The average among developing countries, as reported by the World Bank, was 7.7, indicating significantly lower levels of non-performance in Panama.

Banking center assets totaled \$130.4 billion on November 30, 2020, up 4.4% from the balance on December 31, 2019 (\$125.0 billion). Total deposits also increased, in this case to \$96.4 billion, from \$88.1 billion at the end of 2019 (+8.3%). Total loans, however, dropped to \$72.6 billion from \$76.1 billion on December 31, 2019 (-4.7%).

The banking center has maintained its solidity amid the crisis. The government did not impose moratoria on banks, but recommended loan payment suspensions for several months through the end of 2020. Government indifference, in addition to the haphazard and arbitrary response by the banking sector to the plight of its borrowers during the pandemic, generated significant resentment throughout the country.

In 2020, Panama's banks almost doubled their reserves to \$1.0 billion, up from \$518 million on December 31, 2019. A significantly more prudent credit policy resulted in a 38% increase in liquidity year-on-year on November 30, 2020, with liquid assets increasing from \$19.2 billion to \$26.5 billion.

#### Banking system

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## Monetary and Fiscal Stability

The U.S. dollar is Panama's legal tender, pursuant to a 1904 monetary convention with the United States. The country does not issue paper money and has no independent monetary authority. The government only mints coins for ordinary use, in equivalent size and denomination as U.S. coins, which also circulate freely. The Panamanian government, therefore, is unable to pursue a monetary policy or adopt stabilization measures. According to Economic Commission for Latin America and the Caribbean (ECLAC), the real effective exchange rate index (2005 = 100) has remained fairly stable since 2012 (at about 90), reaching 86.9 in 2019 and 89.8 in 2020.

According to the World Bank, inflation has been rather low (below 1% annually) during recent years, at 0.8% in 2018 and negative in 2019 (-0.4%). According to the national statistics office, the urban consumer price index (CPI) declined to 1.9% in October 2020. Reportedly, the descent was even more pronounced (2.3%) in the metropolitan areas of Panama (including Panama City and San Miguelito).

#### Monetary stability

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Despite a lack of institutional safeguards and ad hoc policy changes, budgetary policies have generally promoted fiscal stability. This changed dramatically during the coronavirus crisis. According to government calculations, Panama's GDP dropped by 17.9% in 2020. Fitch Ratings, which coincided with the Panamanian government's estimate, indicated this was the fourth sharpest decline among countries rated by the agency, only above Macao, the Maldives and Lebanon.

The fiscal deficit had already been significant before the pandemic, at -3.1%, -3.2% and -3.7% of GDP in 2017, 2018 and 2019, respectively. Government revenue dropped by 22.5%

in 2020, down to \$6.3 billion from \$8.2 billion in 2019. This unprecedented decline was offset by public borrowing. Between February 2020 and the beginning of 2021, the national debt increased by \$8.6 billion to \$38.4 billion (+29%). Gross public debt rose from 39.3% of GDP in 2018 to 46.4% in 2019 and 69.8% in 2020, according to the Panamanian government.

Partly as a result, in November 2020, Standard & Poors downgraded Panama's risk rating from BBB+ to BBB. In February 2021, Fitch Ratings followed suit, downgrading the country from BBB to BBB-. The downgrade by Fitch situates Panama at the investment grade limit. This creates additional disincentives to foreign investment, which business sectors repeatedly mention as the most convenient option to weather the economic crisis.

In January 2021, the IMF approved a \$2.7 billion, two-year arrangement for Panama under the Precautionary and Liquidity Line (PLL). The Panamanian government has not applied for debt relief. Neither has it announced debt sustainability or fiscal consolidation plans.

The Panama Canal, one of the main revenue contributors to the Panamanian government, saw a 11.8% decrease in transits year-on-year on February 28, 2021. Toll income, however, was up by 5.0% on the same date.

#### Fiscal stability

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## Private Property

Article 47 of the constitution recognizes the right to private property, subject to social priorities. In the pursuit of public utility or social interests, as defined by law, private property may be expropriated through special judicial proceedings and payment of indemnities (Art. 48).

Despite the constitutional and legal guarantees, seizures or misappropriations, especially through fraud and intrusions, are risks faced by property owners. The Public Registry is notoriously inefficient and corrupt. A fraud ring in the registry was uncovered in recent years, after one of its victims, a journalist who announced he would publicize the ring, was assassinated. Racketeers in the registry operated in collusion with public notaries and judges.

Squatting is commonplace and tolerated by the government. A report by the Housing Office estimated at 395 the number of illegally established "communities" resulting from organized land intrusions throughout the country. Property owners affected by these "invasions" suffer loss of real estate, normally without any form of compensation.

#### Property rights

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Private companies are allowed to operate in accordance with the constitution. There are restrictions to the operation of foreign-owned companies in retail trade, as stipulated in the constitution's Article 293. Except for allocations of state-owned real estate, privatizations of state property have not taken place in recent years, after the opaque and controversial sale of

49% of the stock in the telephone and electricity utilities in the late 1990s, during the administration of Ernesto Pérez Balladares (PRD, 1994 – 1999).

According to law, state-owned real estate may be only allocated at prices established through valuations conducted by the Comptroller-General's Office and the Ministry of Economics and Finance. These valuations are often manipulated in favor of government sympathizers and supporters.

Most recent figures available at the national statistics office indicate that private sector expenditures amounted to 51.3% of GDP, versus government expenditures, which amounted to 11.7% of GDP in 2018.

Private enterprise

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## Welfare Regime

The Social Security Administration (Caja de Seguro Social, CSS), founded in 1941, provides retirement pensions, as well as maternity, illness and disability subsidies. In 2019, pension payments amounted to \$1.6 billion and subsidy disbursements totaled \$70.1 million. Medical services are also provided to all who are part of the system, including contributors and their dependents.

In 2019, 3.3 million persons were covered by CSS, including 1.6 million contributors and 1.7 million dependents, representing 79% of a total population estimated at 4.2 million. According to Panamanian law, everyone who earns a salary in Panama must be enrolled in the Social Security Administration.

CSS is one of the most poorly administered, inefficient and corrupt government organizations in Panama. Long delays in the provision of medical services and shortages in the availability of medications are its hallmarks.

The pension program, consisting of two “subsystems” (a redistribution plan and a partial pay-as-you go scheme) has been under severe stress over several years. In early 2021, it was estimated that by 2026 the redistribution “subsystem” will have run a deficit of \$1.0 billion, stemming from the difference between contributions and pensions due, plus administrative costs.

Ostensibly to come up with solutions to this dilemma, at the beginning of 2021 the Cortizo Administration convened a Social Security Dialogue, with the participation of the business, labor and government sectors. The dialogue's main objectives are to define the future of the redistribution “subsystem,” improve the administrative efficiency of CSS, and incorporate informal workers into the social security system. Little progress was made in the first months of the year, chiefly owing to internal bickering within the committee. In April 2021, the government announced it would seek the assistance of the International Labor Office (ILO) to facilitate and expedite the dialogue.

Other safety nets set up by the government are paid directly from the national treasury. At the eve of the pandemic, these programs cost the treasury approximately \$1.6 billion, amounting to 17% of the government budget. These included subsidies to all persons over 65 not receiving a pension, all students throughout the country receiving passing grades and all disadvantaged persons, among others. Additionally, there are subsidies to reduce the cost of electricity for low-level consumption, to fix the price of liquified gas and to reduce the interest rate on low-cost housing loans.

In response to the forced shutdowns and severe loss of income, in mid-2020, the government created Panamá Solidario, a safety net consisting of a food distribution component (through direct distribution of baskets in rural areas and food vouchers in urban areas) and a monthly stipend to supplement salary losses. According to the government, at the end of January 2021, \$667.5 million had been disbursed under this program, benefiting 1.3 million persons.

Access to the safety net, including Panamá Solidario, by non-citizens is problematic. Although legalized foreigners are eligible, the highly discretionary nature of distribution often operates to exclude them.

#### Social safety nets

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Article 19 of the constitution prohibits discrimination based on race, condition of birth, disability, social class, sex, religion or political views. In actuality, however, several forms of discrimination exist and have economic and social implications.

Although World Bank data show slightly higher literacy rates for men (96.0%) than women (94.9%), more women than men are enrolled at the secondary and tertiary education levels. The labor force is significantly populated by men, with women comprising 40.4% of the workforce in 2020.

Despite guarantees of equal opportunity, public sector jobs at all levels are traditionally awarded to members of and activists in the ruling political parties according to a spoils system operating from time immemorial. A professional civil service, including merit-based recruitment, is not in place, which affects qualified citizens who are not openly loyal to the parties in office.

Discrimination based on ethnicity and sexual orientation is an ongoing complaint. A least four lawsuits seeking to legalize same-sex married have been brought before the judiciary since 2016 but are all still awaiting rulings.

Non-citizens are not legally able to work in Panama unless they become residents. This is a burdensome, corruption-ridden procedure with the National Migration Service. As a result, many immigrants remain in the informal sector, operating in the shadows of the formal economy, where they are prone to police harassment and other forms of abuse.

#### Equal opportunity

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## Economic Performance

In 2019, Panama's GDP, at purchaser's prices, amounted to \$66.8 billion. Adjusted for purchasing power (PPP), GDP per capita was \$32,762, the 16th highest among developing economies monitored by the World Bank and the highest in Latin America. GDP per capita grew 1.3% from 2018.

Macroeconomic indicators showed good performance on the eve of the pandemic. Reportedly, the unemployment rate was 3.9% in 2019 (although almost half of the workforce operated in the informal sector) and the consumer price index dropped by 0.4 from a year before. Foreign direct investment represented 9.1% of GDP, the highest ratio in Latin America. Public debt, although increasing, stood at a still acceptable 41% of GDP.

Thirty years of continued, overall economic growth (1989 – 2019) came to an abrupt end in 2020, as a result of ill-advised measures imposed in response to the pandemic and the country's institutional incapacities. Very prolonged shutdowns forced on the population, ostensibly to prevent oversaturation of an already-inadequate health system, brought private investment to a standstill and economic activity to a halt for several months starting in March 2020, with a consequent loss of employment and income for hundreds of thousands in the country. GDP dropped by 17.9% in 2020, the steepest plunge recorded since reporting began. The current account deficit, which had been high throughout the decade (between \$3.5 and \$6.7 billion) diminished considerably to \$26 million in the first quarter of 2020, albeit coupled with a sharp decline of about 80% of trade volume (ECLAC data).

According to an annual government survey, the number of unemployed more than doubled, from 146,111 in August 2019 to 371,567 in September 2019. This increase represents a rise from 7% to 18.5% of the "economically active population." However, it leaves out those operating in the informal sector, which represented 45% of the "non-agricultural labor force" in August 2019. Thirteen months later, the informal sector had risen to 53% of this population segment, encompassing 777,162 individuals, according to the national statistics office.

Public debt levels have skyrocketed in response to a severe plunge in government revenues. On February 28, 2021, the Ministry of Economics and Finance (MEF) reported a 29% year-on-year increase in total public debt to \$38.4 billion, up \$8.6 billion in 12 months and up \$11.8 billion since the start of the administration of Laurentino Cortizo (PRD) on July 1, 2019. In other words, the Cortizo administration increased public indebtedness at the unprecedented rate of \$657.1 million per month. The national debt grew at much lower average monthly rates under previous administrations, including those of Martín Torrijos (PRD, 2004 – 2009, \$29.9 million), Ricardo Martinelli (CD, 2009 – 2014, \$114.0 million), and Juan Carlos Varela (PPAN, 2014 – 2019, \$149.5 million).

Getting the economy back on track will require a huge effort, significantly reliant on the ability of the public sector to perform efficiently, transparently and rationally. Prospects for significant recovery in 2021 are not optimistic, given that new shutdowns are expected in the light of continued risks of cases of the coronavirus owing to vaccination delays and inefficiencies.



## Sustainability

While environmental concerns receive more than sporadic consideration, they are often subordinated to growth efforts. Environmental regulation is inconsistent and often not enforced. The Panamanian constitution stipulates that it is the responsibility of the state to guarantee environmental protection, sustainability and “equilibrium” (Articles 118 – 119). A specific environmental law was adopted in 1998 and reformed in 2003, 2006, 2010 and 2015. Law N°41 of 1998 reiterates the government’s obligation to protect Panama’s ecological resources, starting with a national environmental policy, which the administration is responsible for designing and implementing. In 2015, the environmental office was transformed into a ministry (Mi-Ambiente) with a large bureaucracy which, however, has not had much effectiveness in terms of fostering a clean and sustainable environment.

Overall, environmental concerns are not an actual priority for the government, either at the national or the local level, despite the proposals in the strategic government plan (see “prioritization”) or the dictates of Law N°41 of 1998. For example, although the law recognizes carbon capture as one of the services provided by Panama’s valuable forests and stipulates that mechanisms to realize the economic value of these services will be implemented in accordance with international standards, steps to do so have yet to be taken. Public awareness has increased in recent years, although many contribute to actively depleting the environment through predatory practices, including improper garbage disposal, polluting water sources, and clearing large sections of land for slash-and-burn agriculture (still practiced extensively among subsistence farmers) or cattle raising.

Major environmental damage events reported by the national statistics office increased from 28 in 2014 to 82 in 2018. These include inadequate waste management, oil spills, chemical pollution, residual water contamination, sedimentation and wildfires, among others. According to the Food and Agricultural Organization of the United Nations (FAO), 56,370 hectares of forest were lost between 2012 and 2019, especially as a result of illegal logging, representing an annual loss of approximately 8,050 hectares. Wildfires are a historical problem in Panama, especially during the dry season. Fire department statistics show that 3,741 such events occurred in 2018, 6,248 in 2019, and 4,832 in 2020, presumably declining from the previous year due to government-issued confinement orders.

Fifty-two watersheds have been identified in Panama, including approximately five hundred rivers. In 2015 it was reported that nearly 60% of the watersheds were contaminated. In 2020, the Ocean Cleanup, an international NGO, included seven of Panama’s water sources on a list of the one thousand most polluted rivers globally. Water supply has become an issue for the Panama Canal, the country’s emblematic asset. Deforestation, climate change, contamination of sources and population increases (with consequent pressures on water for human consumption, agriculture, industry, electricity generation and other uses) threaten to deplete the availability of water for shipping operations. As a result, the Canal Authority has

prioritized development of a new water management system. Implementation is expected to begin in 2022. Afforestation programs in the canal basin have also been prioritized.

Other efforts include the Alianza por el Millón project, which aims to reforest one million hectares, and the promotion of green energy. The Alianza projects, which operate under the umbrella of the 20x20 Initiative, a country-led effort to change the dynamics of land degradation in Latin America and the Caribbean, are implemented by the NGO National Association for the Conservation of Nature (ANCON) and MiAmbiente. While about 70% of Panama's electricity is generated from hydropower and the use of solar and wind energy has increased slightly over the past two decades, there are plans to "green" the transportation sector, which is responsible for about 40% of carbon emissions.

#### Environmental policy

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Education is conceptualized as a right and a duty in Panama's constitution (Art. 91). Although there is a state educational system in all regions of the republic for all levels of instruction, and although, according to macro-level statistics, it is on the surface acceptable, actual delivery and results are problematic.

Panama is ninth among the Latin American countries on the UN Education Index, with a score of 0.700, comparable to Mexico's (0.703). Its literacy rate of 94.5, seventh in the region, also ties with Mexico's.

In 2018, at all instructional stages (i.e., from preschool to college, including technical, special and professional instruction), there were a total of 1,094,268 students and 68,201 faculty in Panama's state and private facilities, which gives an overall ratio of 16 students per instructor.

The state educational sector consisted of 3,293 preschool, elementary and high schools under the Ministry of Education (2020), in addition to five state universities, the national institutes for sport and culture (the latter upgraded to Ministry of Culture in 2019), a technical institute (ITSE), a professional development institute (INADEH), an institute for the disabled (IPHE), the national scholarships fund (IFARHU), and the state radio and television service (SERTV). The budget allocation for this sector amounted to \$2.6 billion in 2019 – \$1.9 billion for the Ministry of Education and the remainder for the other components of the system.

According to the national statistics office, per capita expenditure on the state educational system was \$1,966.73 in 2018. World Bank statistics indicate that R&D expenditure was quite low, amounting to just 0.1% of GDP in 2017.

Actual results of the educational process in Panama are very discouraging, as confirmed by the most recent data from the OECD's Program for International Student Assessment (PISA 2018). Panama had the seventh lowest score among 77 participant countries in reading comprehension, and the third lowest scores in science and mathematics out of a group of 78 countries. In mathematics, Panama's results were below level one, indicating a widespread inability to perform elementary calculations.

Restrictions imposed to face the pandemic dealt Panama's educational system a strong blow, compounding its inadequacies further. Schools, which had just opened in March 2020, were ordered to close and education came to a standstill until mid-year, when it was announced that the state system would turn to online teaching.

The switch (which by that time had already been effected by many private schools) was not immediately operational and faced significant obstacles, including connectivity difficulties. The digital platforms on which online education depends are privately operated and, thus, cost more than many families can afford.

Additionally, internet connectivity does not reach many parts of the country. In consequence, at least 40,000 students were completely unable to receive online instruction. Among those who were able to connect part or most of the time, connections were often unreliable, and actual delivery, at best incomplete, owing to the lack of preparedness among instructors, computer illiteracy and inadequate educational content.

Education / R&D policy

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## Governance

### Level of Difficulty

Panama's privileged geographic position has historically stimulated the growth of its service economy, based on the transit corridor, the centerpiece of which is its world-famous canal. Natural disasters, though not uncommon, are not as devastating as in neighboring countries.

Tremors occur frequently, but they do not cause major damage. Heavy rains and flooding have increased in recent years, as has the intensity of dry season droughts. Generally, these issues do not cause serious disruptions, although the rains and flooding occurring in the western provinces of Chiriquí and Bocas del Toro in November 2020 were a major exception.

Other factors, however, are holding the country back, including a deficient infrastructure (especially in terms of ground transportation) causing, among other problems, nightmarish traffic jams. Poor educational levels and extreme poverty also undermine development.

The inadequacies of the educational system, as noted above, have contributed to poor human capital formation. The country's labor force is deficiently educated (except in enclaves such as the Panama Canal) and extreme poverty remains entrenched. The World Bank calculated the extreme poverty rate at 5.2% in 2018, with no significant decline taking place in 2019 and a rise expected in 2020 due to the economic collapse caused by measures imposed in response to the pandemic.

COVID-19 hit Panama severely. Eleven months after the first case was discovered in March 2020, 339,383 cases and 5,810 deaths have been reported (the figure is likely higher). By the end of February 2021, Panama had registered 77,858 cases and 1,333 deaths per one million

people. Global averages according to Worldometer, were much lower (14,618 and 324.3, respectively).

#### Structural constraints

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Generally, clientelism remains the main incentive for political participation, which is normally limited to electoral participation every five years. Social trust levels are low, as reported above.

Even so, there is a trajectory of civic associations going back nearly two centuries, starting with the foundation of the Society of Friends of the Country (Sociedad de Amigos del País) in the 1820s. Throughout the nineteenth century, aid and professional societies operated in Panama. Toward the end of the century, one of the main achievements of a yet-incipient civil society was the foundation of the fire brigade (1887).

After the creation of the Republic of Panama in 1903, economic growth and U.S. influence contributed to the formation of lasting professional and civic associations. These include the Chamber of Commerce (Cámara de Comercio, Industrias y Agricultura, 1915), the Society of Engineers (Sociedad Panameña de Ingenieros y Arquitectos, 1919), the Rotary Club (1919), the General Workers Union (Sindicato General de Trabajadores, 1924), the National Bar Association (Colegio Nacional de Abogados, 1929), the National Association of Physicians (Asociación Médica Nacional, 1929), the Lions Club (1935), the United Teachers Association (Magisterio Panameño Unido, 1944), the Association of Professors (Asociación de Profesores de la República, 1945), the Workers Federation (Federación Sindical de Trabajadores de Panamá, 1945), the Industrialists Association (Sindicato de Industriales, 1945), Active 20-30 Club (1955), the Business Executives Association (Asociación Panameña de Ejecutivos de Empresa, 1958), the Bankers Association (Asociación Bancaria de Panamá, 1962) and the Kiwanis Club (1967), among many others. In the 1980s, several of these groups joined to launch a campaign to promote civic values and, toward the end of the decade, formed the National Civic Crusade (Cruzada Civilista Nacional, 1987 – 1989) against the military dictatorship.

Currently, although numerous civic associations exist, many are perceived as penetrated by business or political interests. It is not uncommon for civil society leaders to use their platforms to help obtain political office. This was the case for environmental leaders who became the mayor (1999 – 2009) and vice-mayor (2014 – 2019) of the city of Panama, and for the executive director of an anti-corruption group, who obtained an appointment as the director of the National Transparency and Information Access Authority (ANTAI) for 2014 – 2019.

#### Civil society traditions

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Although the level of political debate is quite precarious and inclined to personalism, since the transition to democracy (1989 – 1994) political violence has not been an issue. The main cleavage during the military dictatorship (1968 – 1989), which fractured society among those who supported the regime and those who opposed it, has been mostly healed, although the

PRD, the dominant party in the system, founded by the dictatorship in 1979, still elicits strong revulsion in certain sectors.

Socioeconomic cleavage, with roots going back many decades, remains in place, although it has not yet been fully politicized.

An emerging cleavage, which is growing in fortitude, divides supporters and detractors of the political system. The central point of this fissure is the constitution of 1972, imposed by the military regime and still in place, which gave rise to the current political system.

While certain sectors advocate for a complete overhaul through a constituent assembly, others support system continuity through adaptation and minor (even cosmetic) constitutional reform. The coronavirus pandemic has heightened criticism of the government of Laurentino Cortizo (PRD, 2019 –), in particular, and the political system, in general, but this criticism has not yet led to widespread mobilization of the population or to significant political violence. Youth protests in 2019 and 2020, however, signaled growing discontent among young people; their protests were occasionally accompanied by violence.

Conflict intensity

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## Steering Capability

The priorities set by the Cortizo government have not been consistently strategic, as they have also been undermined by short-term political considerations and affected most notably by the coronavirus pandemic. Pursuant to Law N°34 of 2008, which requires the submission of a government strategic plan within the first six months of each administration, President Cortizo presented his strategic plan (Plan Estratégico del Gobierno 2020 – 2024; PEG) based on five pillars: 1) good governance; 2) rule of law; 3) a competitive economy to generate employment; 4) combatting poverty and inequality; 5) education, science, technology and culture. Each of these strategic pillars contains a series of specific objectives and “priority actions.”

Apart from being rather ambitious in an overall weak institutional environment, which tends to undermine long-term policies, the government met resistance on several fronts even before the pandemic. Most emblematic was the “priority action” of constitutional reform that was heavily criticized after the National Assembly introduced self-serving and even confusing amendments. After widespread social protests and the apparent loss of control over part of his faction in parliament, Cortizo withdrew his reform proposals. Instead, with the support of the UNDP, he introduced an alternative, more inclusive process of constitutional reform, which however did not move forward due to the pandemic.

The pandemic, which is partly responsible for the lack of progress on strategic goals, has almost overwhelmed the government and led to an abrupt reversal of priorities. Panama was completely unprepared to face a crisis of such magnitude. Problems include an inefficient and corruption-ridden health service, a weak epistemic community, very modest R&D and almost no inputs from the scientific sector (with the notable exception of the Gorgas

Memorial Laboratory). Already weakened in its leadership, the government initially responded by replicating measures adopted by countries in the region, prioritizing a hard lockdown, without careful consideration of its impacts or adequate adaptation. As a result, Panama suffered one of the steepest economic declines globally in 2020, fueling further discontent among citizens.

Nevertheless, the government has managed to “rescue” some of its strategic priorities and implement important measures for social and economic relief, such as the Panama Solidario program, which was quickly established, and the acquisition of international support for the Plan Colmena strategy. Moreover, in November 2020, Cortizo – in urgent need of credibility – launched the Pacto del Bicentenario, which is supposed to deliver (and indeed did deliver) concrete reform proposals after an extensive consultation process involving all political, economic and social forces, down to every single citizen. Whether this process, continuing until the end of 2021, will really lead to fundamental changes can only be speculated in view of the mostly corrupt political environment that regularly tables such initiatives. However, the high participation figures, especially by individual citizens, and the subsequent rounds of consultations were impressive and prompted the UN High Commissioner for Human Rights, Michelle Bachelet, to praise the process.

While President Cortizo emphasizes evidence-based policymaking, progress has been meager and delayed, partly due to the pandemic; one example is the census, originally planned for 2020, which was to provide more detailed insights, particularly into the Afro-Panamanian population. In addition, the Government Office (Ministerio del Gobierno), which acts as a strategic planning unit, attempts to organize expertise on various PE G topics, but the lack of a professional civil service, due to patronage, undermines effective implementation. Political appointments prevail, especially in the subordinate bureaucracy. The civil service is weak, since allocating jobs as electoral rewards is the modus operandi in nearly all Panamanian administrations.

#### Prioritization

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The Cortizo government, in office since July 2019, has failed to implement some of the measures envisioned in the Strategic Plan 2020 – 2024. Apart from the constitutional reform, this is mainly due to the pandemic, which has delayed most of the initiatives since all other goals were submerged by the objective of confronting the health emergency. An oversaturation of the precarious health system was very narrowly prevented by imposing strict confinements, which handicapped the economy. Measures aimed at preventing contagion and deaths from the virus were not as effective as they were elsewhere, as shown by statistics for Panama, which revealed much higher death rates per million population by comparison the global average by the end of January 2021. Since February 2021, the rate of increase in confirmed COVID-19-related deaths has been similar to that of Germany and much lower than in South America, allowing for continued recovery in line with government efforts.

After the initial standard (and harsh) response to the pandemic, the government was able to take several measures to improve the disastrous social and economic situation into which it had forced the country. For example, the Panama Solidario program, the Plan Colmena



strategy, and the Pacto del Bicentenario were implemented professionally and have produced results. According to ECLAC projections on poverty rates, Panama was the only country besides Brazil in which extreme poverty did not increase in 2020, presumably due to the effectiveness of the Panama Solidario program. After initial difficulties, the government has also improved pandemic management, particularly with regard to vaccinations.

In recent years, Panamanian governments have succeeded in accessing international capital markets at favorable interest rates. Leveraging Panama's investment grade, in July 2019, the government of Laurentino Cortizo (PRD, 2019 –) placed a \$2-billion bond issue on the international market, followed by a \$1.3-billion issue in November 2019, at the lowest rates the country ever received. These developments were hailed as policy successes, although critics expressed concern about rising indebtedness.

#### Implementation

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The government shows a reduced capacity for policy learning, not a particular strength of governance in Panama overall, despite some exceptions. A major difficulty is that significant knowledge is lost when officials rotate as a result of national elections or the dismissal of department heads. This is nearly always the case when a new government steps in, owing to a time-honored practice of replacing top- and middle-level officials in the bureaucracy with political appointments. The learning curve is often steep for incoming officials who frequently do not possess adequate qualifications for their jobs. While several reforms have been implemented to improve the civil service, such as Law No. 23 of 2017 to strengthen the role of the Directorate General of Administrative Careers (DGCA) in developing human resources policies for public servants, progress has been slow.

Appointments to the bureaucracy at all levels continue to be seen as prizes to be awarded to loyal supporters and campaign activists, or as rewards to campaign donors. There is no formal institutional framework in place for learning or innovation, and international influence has to date been irrelevant with regard to contributing to professionalization of the civil service. It is not unusual for attendees at professional training programs abroad under official cooperation schemes to be dismissed once there is a change in government.

Panamanian administrations do not excel at consistently seeking expert advice, but they do so for certain important goals, such as, under the Cortizo government, seeking advice from the UNDP for a renewed, dialogue-based constitutional reform process – which then stagnated due to the pandemic – and the implementation of the Pacto del Bicentenario (via the internet platform Agora). These two policy changes also demonstrate a certain degree of policy learning to correct failed top-down policies, albeit with qualifications made in “Prioritization.” The latter points to country-specific problems, such as those that surrounded the financial transparency commission created with fanfare by Cortizo's predecessor, Varela. Its most prominent members, Nobel Laureate Joseph Stiglitz and corruption expert Mark Pieth, withdrew from the commission in 2016, alleging that the government was ultimately covering up the “business model” as revealed shortly thereafter in the Panama Papers.

#### Policy learning

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## Resource Efficiency

The government makes efficient use of only some of its available human, financial and organizational resources. Panama's 2020 budget amounted to \$23.3 billion. Nearly 60% (\$13.7 billion) was allocated to funding regular operations, including government salaries. According to the Comptroller-General's Office, in November 2020 there were 242,133 public employees. This figure represented a year-on-year increase of 1,337 (0.6%). The accumulated payroll expense on November 30, 2020, amounted to \$4.1 billion, versus \$3.8 billion a year before. This represents a \$248 million year-on-year increase (6.5%).

In the 11 months ending on November 30, 2020, government earnings amounted to \$4.2 billion, which represented a 30% year-on-year decline. Tax receipts for \$3.2 billion were the main component of government earnings, down 31% from a year earlier. Payroll expenses on November 30, 2020, represented 98% of regular earnings and 128% of tax receipts on that date. Clearly, the Panamanian government resorted to public indebtedness to fund its already-bloated payroll, which continued to increase despite the pandemic. Recruitment and dismissal of government employees usually reflect political motivations. Competitive, meritocratic personnel management procedures are alien to Panama's public sector.

Panama's 2021 budget, for \$24.2 billion, was 4% higher than the previous year's. Observers expressed surprise at the increase, given the country's strained budgetary situation. Of the total, 68% was allocated to regular operations (\$16.4 billion). Given the precipitous drop in government receipts, the budget is increasingly being funded by public debt. The National Assembly increased the deficit ceiling to between 9% and 10.5% in 2020, and between 7% and 7.5% in 2021. As noted, public debt rose by \$9.0 billion between January 2020 and January 2021, up to \$38.9 billion. Government accounts are audited by the Comptroller-General's Office, the activities of which, though nominally independent, are in effect aligned with the government's objectives. The office is slow to reveal data and ineffective in preventing misuse of funds. Transparency is not a priority. Obtaining reliable, timely statistics is an arduous task.

### Efficient use of assets

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The Cortizo administration has repeatedly failed to coordinate between conflicting objectives. Disputes between the government bloc in the National Assembly, the PRD leadership and the national executive have obstructed policy implementation. The pandemic has made some discrepancies within the government more evident than they were previously. Internal disputes caused the dismissal of Health Minister Rosario Turner in June 2020, before she had completed her first year in office. Turner was succeeded by Vice-Minister Luis Francisco Sucre. At that time, the ministers for Housing and Social Development were also replaced, ostensibly to placate dissatisfied members of the ruling party.

Some policies have counterproductive effects on other policies. Since the start of the coronavirus emergency, numerous and inopportune restrictions issued by the Health Ministry have lacked clarity and conflicted with regulations stemming from other areas. Unclear,

ambiguous dispositions have been left to the arbitrary interpretation of security forces, which tend to take authoritarian courses of action.

#### Policy coordination

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Although anti-corruption legislation exists and integrity mechanisms are in place, neither the government, nor the judicial system manifest a strong willingness to contain corruption. According to Articles 279 – 280 of the constitution, all government spending is subject to auditing by the Comptroller-General's Office. Appointment to the post of comptroller-general of individuals closely associated with the president or the ruling party often results in lenient treatment of activities not in the public interest, which, nonetheless, are submitted or recommended by prominent officeholders.

In 2004, the government created a National Transparency Council against Corruption, which in 2013 became the National Transparency and Information Access Authority (ANTAI). Neither ANTAI nor its predecessor have succeeded in contributing to improving transparency levels. Corruption is widespread in all branches of government. As reported by the 2019 Global Barometer Report, 56% of those surveyed thought corruption had increased in the previous 12 months.

According to Law N°26 of 2006, modified in 2020, all government contracts over \$50,000 must be awarded through public bidding. All contracting and procurement must be published by the government, for which purpose the Panama Compra electronic portal is utilized.

There is no specific conflict of interest legislation in Panama. The Public Servants Ethics Code (Executive Decree N°246 of 2004) generally prohibits conflict of interest but does not identify specific behaviors or establish explicit penalties. A bill to provide such legislation was introduced in the National Assembly in 2019, but it has thus far failed to receive the deputies' attention.

According to Art. 304 of the constitution, top officials in all branches of government are required to submit asset declarations before a notary public within 10 days of both taking and leaving office.

Law N°6 of 2002 regulates access to public information, requiring disclosure except in cases of confidentiality pertaining to public security or other sensitive matters, within 30 days of filing the request. Officials may request a 30-day extension. If no answer is provided, the petitioner may resort to the Supreme Court. Orders issued by the court to release information based on Law N°6 of 2002 are often not observed.

Campaign finance limits, considered in the Electoral Code, were introduced in 2015. They include a \$10-million cap on presidential campaign spending and a \$300,000 limit on individual contributions to presidential campaigns. Law N°23 of 2015, modified in 2017, introduced measures to prevent money-laundering, as well as the financing of terrorist activities and the proliferation of weapons of mass destruction. This legislation, as well as measures adopted to implement it, have been considered insufficient by the OECD's Financial Action Task Force.

## Consensus-building

Major political actors agree that the current configuration of Panama's politics, based on the 1972 constitution and overall stable since 1990, should be maintained; there has been no attempt at democratic rupture in recent decades nor a rise in authoritarian populism. While this consensus includes competitive elections on a five-year rotation, to date, it also means the acceptance of defects such as "partyarchy," clientelism and vote-buying, which create obstacles to reforming the current constitution to further democratize and liberalize the political system. Of the seven candidates in the 2019 presidential election, three proposed modest modifications, based on a procedure involving the incumbent National Assembly, and another three suggested making changes through a constitutional convention also described in the constitution. Only one candidate proposed a complete overhaul by means of a constituent assembly.

Relevant actors concur that Panama's model of market economy should be preserved; there are no government parties with nationalizing strategies or which seek the increased presence of the state in the economy. This, however, also implies the maintenance of the cartel-based economic system against proposals to make it more transparent and competitive. The system is based on informal connections between the political and economic elites, partially based on bribery and other graft in exchange for political benefits and favorable regulations. For example, chiefly as a result of investigations carried out in other jurisdictions, it has been revealed that government contractors (including large construction companies, such as Odebrecht and FCC Construction) normally bribe officials to obtain government contracts.

### Consensus on goals

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In a strict sense, from the standpoint of procedural democracy, anti-democratic actors are not present in Panama. However, given the elitist nature of Panamanian politics, there are strong indications that these elites have no interest in, or at least find difficult, deepening democracy. In this vein, advocates of democratization are generally unable to get their initiatives past major roadblocks, including the Electoral Tribunal, the party system, the executive, the National Assembly and the judiciary. Actors in these sectors have prevented initiatives for constitutional reform, democratization and transparency from coming to fruition. A case in point was the constitutional reform submitted to the National Assembly in 2019, which project the deputies thwarted by introducing self-serving and even confusing amendments. Mounting public criticism forced the government to withdraw the project.

Starting with the Martín Torrijos Administration (PRD, 2004 – 2009), the security services have gained strength, thanks to strong support from the Panamanian government and the United States. As a result, these units, including the National Police, the Air & Naval Service, and the Border Service, operate autonomously, outside the reach of democratic oversight. These services have become an informal veto player. Other veto players in matters of relevance to them include big business sectors and the Catholic Church.

## Anti-democratic actors

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The socioeconomic divide remains the most important divide in Panama today, and it partially overlaps with ethnic cleavages. Despite occasional outbursts of populist rhetoric, however, these fissures have not yet been activated politically or through elections. Nor have they become violent. Political actors assume that they can continue to prevent the escalation of conflict through traditional patronage measures, including massive subsidies. While indigenous cleavages have recently become more visible, there are institutionalized mechanisms – such as the indigenous comarcas with a degree of self-governance and specific equality rights – that prevent potential escalation of conflict.

Notwithstanding, mounting frustration because of deep-seated inequalities and the poor management during the pandemic has provided fertile ground for repeated protests, some of which have turned violent. A fracture which has intensified in recent years and even more during the coronavirus emergency, and which has some connection to the socioeconomic cleavage, is that which divides supporters and opponents of the political system. Anti-system activists, predominantly among the youth, are increasingly becoming more vocal and insistent. It remains to be seen if or by how much the Pacto del Bicentenario initiated by the Cortizo government to alleviate all these fissures will deliver results.

## Cleavage / conflict management

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Until recently, civil society participation in the political process oscillated between permission and neglect, given the weak role of most CSOs, other than the well-organized business organizations. On occasion, the government invited supportive civil society organizations to national or sectoral consultations. Independent or adverse organizations have normally been excluded from political processes. During the coronavirus pandemic, universities, think tanks, professional associations and civil society organizations, including scientific, medical, legal, business and other groups complained that the government avoided consultation of them in the design and implementation of its COVID-19 response. The Gorgas Memorial Laboratory, a prestigious tropical medicine research institution, is one of the few scientific organizations consulted during the emergency.

Nevertheless, following the 2019 protests against the watered-down constitutional reform proposal and in the midst of discontent due to the pandemic measures, the Cortizo government launched the Pacto del Bicentenario, a proposal for reforms to be adopted after a comprehensive consultation process involving all political, economic and social forces, down to each individual citizen. Whether this will really lead to fundamental changes can only be speculated upon. But the participation figures were impressive.

## Civil society participation

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Human rights violations during the military dictatorship (1968 – 1989) included arbitrary detentions, torture, exile, forced disappearances and political murders, some of which remain unsolved to this day. A truth commission was established in 2001, but it failed to reach any agreements with the victims. The commission investigated 110 cases and concluded that 70 people had been murdered, while 40 were still missing. The judiciary is notoriously

incompetent when it comes to bringing human rights violations to justice, which is why victims' relatives turned to the Inter-American Commission on Human Rights (IACHR) in 2003. Despite weak attempts during the governments of Mireya Moscoso (PPAN, 1999 – 2004), Ricardo Martinelli (CD, 2009 – 2014), and Juan Carlos Varela (PPAN, 2014 – 2019), few reparations for victims and their families have been made in over a decade. In 2015, the IACHR agreed to evaluate the case, which facilitated the parties beginning bilateral negotiations toward an amicable settlement and offered technical advice. In 2019, the victims of the dictatorship and the government of Panama signed a reparations agreement to acknowledge responsibility for the criminal acts and provide financial compensation to the victims.

Reconciliation

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## International Cooperation

As a high-income country, Panama needs less and less international assistance and will graduate from the Development Assistance Committee's List of Official Development Assistance recipients on January 1, 2022. However, thanks in part to the presence of numerous international organizations (such as the UNDP, UNICEF, UNPE, FAO, et cetera) the country continues to receive technical and financial support in a number of areas. Panama's overarching development goal is to further strengthen its role as a global crossroads of highly competitive service branches (including the canal and financial services), which account for 75% of GDP and are expected to provide economic and political stability. Overall, the government tries to use international assistance for its own development agenda as specified in its strategic plan, but implementation tends to be unreliable, delayed or hampered by administrative deficiencies.

In early 2020, non-reimbursable cooperation projects amounting to \$101 million had been approved for Panama or were being implemented. Main donors included the Inter-American Development Bank (IDB), the Spanish International Cooperation Agency (AECID), the World Bank, the European Union, the Latin American Development Bank (CAF), and the Japanese International Cooperation Agency (JICA). Main areas of execution included environmental preservation, water and sanitation, transportation, and security. Panama has received some assistance in response to the COVID-19 crisis from multilateral agencies (UNICEF, the WHO/PAHO) and other countries, including South Korea, Turkey, the People's Republic of China, Taiwan and, especially, the United States.

On money-laundering, the most pressing issue for maintaining – or better, restoring – a thriving financial sector, the Cortizo administration has committed to several agreements. The most notable of these are a high-level political commitment to work with the Financial Action Task Force (FATF)/GAFILAT to strengthen the effectiveness of its anti-money-laundering/combating the financing of terrorism system and a memorandum of understanding with the United States to establish an anti-money-laundering task force, with FBI support, to improve its capacity to investigate money-laundering and corruption. In both cases, implementation is significantly delayed, negatively affecting the country's credibility.

Effective use of support

In terms of credibility, Panama presents a rather mixed picture. During its tenure, the Cortizo government has attempted to mend some of the cracks that have undermined the country’s credibility and reliability, but it has repeatedly encountered difficulties in implementation, sometimes resulting in a constant back-and-forth assessing compliance and reforms. Panama is a cooperative partner of regional, subregional, and international bodies and largely complies with international obligations. However, the country’s reputation has suffered greatly over the past decade due to its unwillingness and/or inability to combat money-laundering and tax evasion, as the Panama Papers clearly demonstrate.

The EU and the OECD, including its Financial Action Task Force (FATF), have placed and removed the country from their gray or black lists and placed it on them again, albeit without revealing any clear criteria for their actions. The country remains on the EU’s list of non-cooperative jurisdictions for tax purposes since the February 2021 update, as well as on the FATF’s gray list. While the EU ruling is rather arbitrary – aside from the fact that Europe is one of the largest tax havens in the world, according to the Financial Secrecy Index 2020 – the failure to combat money-laundering weighs heavily on the credibility of Panamanian administrations, despite their commitments to make changes. Nevertheless, the country continuously cooperates with the relevant authorities (see “International Cooperation”), not least because the maintenance of its economic model depends on its credibility. In November 2020, Panama ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Convention or MLI), thus – according to OECD – “underlining its strong commitment to prevent the abuse of tax treaties and base erosion and profit shifting (BEPS) by multinational enterprises.”

Given the United States’ strong interest in (and pressure exerted on) Panama, compliance has been quite effective, particularly on issues of security cooperation and financial reporting (most notably under the Patriot Act of 2001). While there is a tradition of signing multilateral and bilateral treaties, compliance with some of these instruments requires improvement. An example is Advisory Opinion OC-24/17 by the Inter-American Court of Human Rights (dated November 24, 2017) on gender identity, equality and non-discrimination against same-sex couples, which the Panamanian government has not acted upon, and which reflects a deeply rooted ultraconservative attitude in most Latin American and Caribbean countries, which, with few exceptions, have likewise ignored this advisory opinion.

Panama belongs to many international and regional organizations and has traditionally expressed a commitment to international cooperation and hemispheric integration. The country’s participation in international organizations has not normally been proactive. Recent years have seen a modest increase in Panama’s presence internationally. Rotating leadership roles have been assumed in the UN World Food Program (WFP), the UN Civil Rights Council, the International Labor Office (ILO), the International Civil Aviation Organization (ICAO), the Organization of American States (OAS), the Association of Caribbean States (ACS) and the Central American Integration System (SICA). Panamanian citizens have been selected to assume leadership roles in the UN Population Fund (UNFPA), the Inter-American Human Rights Commission and SICA.



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Panama is active in regional cooperation, but its interests are divided between subregional cooperation with its Central American neighbors and its special relationship with the United States, given the strategic importance of the canal and the country's financial system as a magnet for money-laundering, especially drug money.

In the years since Panama normalized links with the People's Republic of China (2017), relations with the United States have been characterized by increased insistence from Washington, DC, to "cool off" relations with Beijing. Panama received visits from high-ranking U.S. officials, including former Vice President Mike Pence and former Secretary of State Mike Pompeo, warning the administration of Juan Carlos Varela (2014 – 2019) against the "dangers" of close links with China. The administration of Laurentino Cortizo (2019 –) has seemingly been responsive to the U.S.'s admonitions, aiming to distance itself from Beijing and endeavoring to cooperate with the United States, especially in security matters. A letter of intent regarding security cooperation was signed in December 2019. The following year, Panama created the Regional Center for Aeronaval Operations (CROAN, in Spanish), a joint command of its armed services ostensibly to fight drug-trafficking, which Washington has pledged to support. U.S. National Security Adviser Robert O'Brien visited Panama in August 2020 and "humanitarian" exercises were conducted between the U.S. Southern Command and military units from Panama's public force (the Border and Air & Naval services) in January 2021.

As for its immediate neighbors, Panama's relations with Colombia and Costa Rica are in good standing. Panama, however, has not been very proactive addressing bilateral matters affecting the country. There are problematic issues with Colombia, including the spillover of thousands of irregular migrants across the border into the isthmian republic and trade sanctions maintained by the government in Bogotá, despite WTO rulings favorable to Panama. The Panamanian government has dealt with these troubles, as well as with certain border problems with Costa Rica passively. However, as a result of the worrisome escalation in irregular migration, at Panama's request, the foreign ministers of both countries met in April 2021 to discuss an agreement regulating the "controlled flow" of irregulars. Apart from being a member of most regional and subregional organizations, Panama has become slightly more active in Central American cooperation, especially concerning the Central American Integration System (SICA) and the Economic Integration Subsystem (SIECA).

As part of the Lima Group, Panama adopted early concrete measures against Venezuelan government officials for being "high risk in terms of money-laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction," according to the National Commission against Money-Laundering, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction.

Regional cooperation

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## Strategic Outlook



The coronavirus pandemic has brought to the fore several inadequacies that affect the quality of life in Panama. A deficient health service, a defective educational system, an incompetent judiciary, an ineffective and arbitrary security apparatus, a deteriorated natural environment, an inefficient business framework and, above all, a corrupt, unrepresentative and incompetent political system join forces to undermine possibilities for sustainable development. All these issues require urgent addressing.

An overhaul of the political system seems a logical starting point, as its formal and informal rules provide the framework for the lack of adequate political solutions to the country's most important problems. As for formal institutions, it seems appropriate to replace the structures inherited from the military regime, including the 1972 constitution, the 1978 party system and the 1983 electoral system, with more representative, transparent, efficient and, above all, democratic institutions. First, in democratic systems, the legitimacy of the constitution and the system of laws forms the glue that binds society together and that facilitates peaceful, voluntary, law-abiding coexistence among members of the polity, reducing the need for coercion and, thus, amplifying the space for individual and collective action. In this regard, proposals to adopt a new constitution through a democratic, representative constituent assembly – a task long overdue since the transition to democracy from 1989 to 1994 – should be heeded. The fact that the existing constitution was adopted by a military dictatorship undermines its legitimacy among important segments of society, which do not identify with the military past and consider the country's fundamental law a dictatorial imposition.

Second, undemocratic practices such as clientelism, corruption and flawed leadership have their roots, at least in part, in the model of political representation imposed by the military dictatorship. For example, the introduction of simple majority votes in small, single-member constituencies has favored close connections between voters and representatives, thereby promoting personalism, clientelism and corruption. These and other electoral design features contained in the constitution and the Electoral Code directly impact the quality of political representation in Panama, undermining such basic democratic functions as oversight, deliberation and leader recruitment. Horizontal accountability, an essential feature of a democratic regime, is practically nonexistent in a country whose deliberative organs (the National Assembly and the municipal councils) are constituted on the basis of clientelism, vote-buying and corruption. While the established electoral rules are not directly responsible for individual criminal behavior, increased district magnitude is likely to help promote electoral transparency, as well as the selection of better-qualified candidates who have reputations well-known throughout the country, not just in their localities.

However, regardless of any agreement regarding constitutional and/or code reforms, the informal rules of the game themselves should be addressed directly by using existing transparency mechanisms seriously, effectively and consistently. This, however, will require a determined will to do so in a genuine national and political consensus as part of a long-term effort, rather than sporadically, as has been the case so far.

Prospects for improving Panama's economic conditions seem dependent on foreign investment, but the likelihood of attracting such investment is inhibited by legal insecurity, insufficient safeguards for private property, low levels of human capital, widespread corruption and the general malfunctioning of a swollen, inefficient public sector populated

by party activists rather than competent, professional civil servants. The drastic increase in public debt levels, which at the end of 2020 equaled 70% of GDP (up from 46% at the end of 2019), threatens Panama's barely acquired investment grade classification and places the capacity of the government to function at risk. Economic reactivation is required to bring debt management under control. But fostering economic growth depends on government credibility and trustworthy leadership, two characteristics that suffered additional blows in Panama during the coronavirus pandemic. While the IMF forecasts GDP growth at 12% in 2021, it is likely to slow to 5% in 2022, with domestic and international uncertainties remaining. On the plus side, the government has managed to accelerate the vaccination process; by mid-November 2021, about 68% of the population had been vaccinated – a figure comparable to Germany – with about 55% fully vaccinated.