

Background- Panama¹

The history of Panama, a Central American state located at the narrowest point of the Central American isthmus, is closely intertwined with that of the United States. Indeed, the country owes its existence as a sovereign state, separate from Colombia, largely to the United States, which wanted to secure the land necessary to build a canal to link the Atlantic and the Pacific oceans. Since the end of the nineteenth century, the “Panama Canal” has been both a bane and a blessing of this small Central American nation. During the Cold War, it was under the firm control of the United States. From 1969 through 1989, Panama suffered through the military dictatorships of first General Omar Torrijos Herrera and then General Manuel Noriega. Noriega was deposed in 1989 by a U.S. military intervention. Although Panama successfully returned to democracy after Noriega, it continues to struggle with discrimination against minorities, abuse of prisoners, and corruption.

In the case of Panama, geography seems to be destiny. It emerged from colonialism as a major shipping route. The Spanish first visited Panama in 1501 and sought to use it as a springboard to conquer the Inca Empire to the south. However, they faced strong resistance from indigenous Panamanians and from English raiders who repeatedly razed Spanish towns. By the 1800s, Panama had developed into a shipping stop, isolated from the rest of Latin America, and initially disinterested in joining the other colonies in their rebellion against Spain. However, when Spain revoked a decree authorizing foreign trade, Panama joined the revolution, only to find itself unwillingly joined to Colombia. Throughout the 1800s, Colombia cut deals with the U.S. and other countries to build first a railway and then a canal through Panama to facilitate international shipping. However, Colombia’s internal political turmoil repeatedly delayed construction of the railroad and a French company slated to construct the canal collapsed amidst allegations of financial misconduct. Undaunted, one of the company’s engineers successfully lobbied the U.S. legislature to take over the Panama Canal project. When the Colombian legislature balked, the company and the U.S. recruited Panamanian independence fighters to their cause. With U.S. military backing, a Panamanian junta successfully obtained independence from Colombia and signed a treaty giving the U.S. rights to a Canal Zone encompassing the canal and five miles of land on either side of it.

Panama’s early decades of independence were marked by domestic power struggles and conflict over U.S. involvement in its internal affairs. Panama’s Constitution allowed the U.S. to intervene to restore order² and, as Panamanian elites fought for power amongst themselves, the U.S. repeatedly intervened in 1908, 1912, 1918, and 1925. In 1931, Arnulfo Arias Madrid conducted a successful coup and in, 1940, he won the presidential election. The U.S. initially accepted Arias’ rise to power but, when Arias announced his support for fascism and demanded payment for Panama’s support in World War II, the U.S. backed a coup against Arias by Panama’s National Guard.³ The new government allowed the U.S. to station tens of thousands of troops on

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² PANAMA CONST. art 136 (1904), available in HeinOnline’s World Constitutions Illustrated database, http://www.heinonline.org/HOL/COWShow?collection=cow&cow_id=320.

³ *Arnulfo Arias, 87, Panamanian Who Was President 3 Times*, N.Y. TIMES, (Aug. 11, 1988), <http://www.nytimes.com/1988/08/11/obituaries/arnulfo-arias-87-panamanian-who-was-president-3-times.html>.

over a hundred military bases within Panama for the duration of World War II. Nevertheless, tensions persisted and there were repeated anti-U.S. riots from 1947 to 1964. Additionally, Arias continued to vie for power with the National Guard. In 1949, Arias convinced an election jury to retroactively declare him the winner of the contested 1948 election after the previously declared winner died of a heart attack. In 1951, National Guard Colonel José Antonio Remón Cantera overthrew Arias and won the following year's presidential election, only to be assassinated. In the 1964 presidential elections, the National Guard undertook a campaign of voter intimidation to ensure that their preferred candidate beat Arias. However, Arias' party won control of the National Assembly and Arias again won the 1968 presidential elections. This time, the National Guard allowed Arias to stay in power for only 11 days before it deposed him, dissolved the National Assembly, and imposed a military dictatorship.

From 1969 to 1981, Panama was a military dictatorship, nominally led by a series of puppet presidents, but actually controlled by General Omar Torrijos Herrera. Torrijos transformed the country with public works projects and successfully negotiated an agreement with the U.S. to return the Panama Canal to Panama by 1999.⁴ However, he also displaced indigenous communities to make way for his projects,⁵ and tortured and disappeared his opponents.⁶ Many of these abuses were organized by Colonel Manuel Noriega, who rose to become Torrijos' chief of intelligence. Noriega forged a close relationship with the CIA, accepting payments in exchange for providing the U.S. with intelligence and a base of operations in their fight against communism in nearby countries such as Cuba and Nicaragua. However, Noriega was happy to collaborate with anyone who paid him, simultaneously spying for Cuba, trafficking arms to Colombia's communist guerillas, and facilitating drug trafficking and money laundering.⁷

In 1981, Torrijos died in a suspicious plane crash and Noriega seized power, rapidly escalating the regime's violence and corruption and alienating both his U.S. allies and the Panamanian public. In 1984, Arias made one final presidential run but Noriega rigged the election to ensure victory for his chosen candidate, Nicolás Ardito Barletta, forcing Arias to flee to Miami.⁸ The following year Torrijos' former vice minister of health, Hugo Spadafora, accused Noriega of drug and arms trafficking and promised to fight against him.⁹ Soon, Spadafora's body was found stuffed in a U.S. mailbag with his head cut off.¹⁰ When President Barletta promised to

⁴ John Lee Anderson, *Manuel Noriega, A Thug of a Different Era*, THE NEW YORKER (June 2, 2017), <http://www.newyorker.com/news/daily-comment/manuel-noriega-a-thug-of-a-different-era>.

⁵ Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano and their members v. Panama., Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 284 (Oct. 14, 2014), <https://iachr.ils.edu/cases/kuna-indigenous-people-madungandi-and-embera-indigenous-people-bayano-and-their-members-v>.

⁶ Heliodoro Portugal v. Panama, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 186 (Aug. 12, 2008), <https://iachr.ils.edu/cases/heliodoro-portugal-v-panama>.

⁷ Seymour M. Hersh, *Panama Strongman Said to Trade in Drugs, Arms and Illicit Money*, N.Y. TIMES (June 12, 1986), <http://www.nytimes.com/1986/06/12/world/panama-strongman-said-to-trade-in-drugs-arms-and-illicit-money.html?pagewanted=all>;

⁸ *Arnulfo Arias*, *supra* note 3.

⁹ Anderson, *supra* note 4; William R. Long, *Canal Panama Shaken by Killing of Swashbuckling Doctor*, L.A. TIMES (Oct. 4, 1985), http://articles.latimes.com/1985-10-04/news/mn-4931_1_hugo-spadafora.

¹⁰ Hersh, *supra* note 7; Long, *supra* note 9.

investigate, Noriega removed him from office.¹¹ The Spadafora murder outraged both the Panamanian and the U.S. public and marked the beginning of Noriega's downfall. Panamanians protested the Spadafora murder in the streets and the U.S. press drew increasing attention to Noriega's misdeeds, prompting the U.S. to indict Noriega on drug trafficking charges and impose economic sanctions.¹² Noriega responded with increasing violence and repression, organizing his supporters into paramilitary "Dignity Battalions" that attacked protestors with clubs and machetes.¹³ When Panamanians overwhelmingly voted for the opposition candidate, Guillermo Endara, in the 1989 elections, Noriega canceled the results and ordered troops to stand by as his Dignity Battalions attacked Endara with baseball bats and steel pipes.¹⁴

Finally, in December 1989, U.S. troops ousted Noriega in a chaotic invasion that left Panamanians simultaneously grateful Noriega was gone and deeply resentful of the U.S. and the new government. On December 16, Panamanian forces fatally shot an unarmed U.S. Marine returning from dinner in Panama City.¹⁵ This was the final straw for the U.S., which launched a full scale invasion that ousted Noriega but left hundreds of Panamanians dead and thousands homeless.¹⁶ The U.S. installed Endara in Noriega's place and promised \$1 billion in aid to repair the damage caused by the invasion.¹⁷ By December 1990, however, the U.S. had paid less than a quarter of the promised aid, citing the new government's refusal to turn over information on the billions in secret bank accounts that had sprung up under Noriega.¹⁸ Meanwhile, Endara's approval ratings plummeted to less than 20% because of high unemployment, low wages, and firings of public workers.¹⁹ When a protest called by public workers coincided with an attempted coup by one of Noriega's former deputies, Endara blamed the protestors for the coup and fired still more public workers for participating in the protests.²⁰ However, ultimately Endara peacefully handed over power to an opposition candidate in 1994, successfully completing Panama's return to democracy.

Despite its return to democracy, Panama continues to struggle with discrimination against minorities and abuse of prisoners. Although the law prohibits racial discrimination, there is

¹¹ James LeMoyné, *Panama General Accused in Killing*, N.Y. TIMES (June 20, 1986), <http://www.nytimes.com/1986/06/20/world/panama-general-accused-in-killing.html>; Long, *supra* 9.

¹² Anderson, *supra* note 4; Hersh, *supra* note 7.

¹³ Anderson, *supra* note 4; Randal C. Archibold, *Manuel Noriega, Dictator Ousted by U.S. in Panama, Dies at 83*, N.Y. TIMES (May 30, 2017), <https://www.nytimes.com/2017/05/30/world/americas/manuel-antonio-noriega-dead-panama.html>.

¹⁴ Lindsey Gruson, *3 Top Opponents of Noriega Assaulted in Street Melee; Disputed Election Nullified*, N.Y. TIMES (May 11, 1989), <http://www.nytimes.com/1989/05/11/world/3-top-opponents-of-noriega-assaulted-in-street-melee-disputed-election-nullified.html>.

¹⁵ David Adams, *Homeless People in Panama Run Out of Patience*, THE INDEPENDENT (Dec. 20 1990), Lexis Advance Database.

¹⁶ *Id.*; David A. Graham, *The Death of Manuel Noriega—and U.S. Intervention in Latin America*, THE ATLANTIC (May 30, 2017), <https://www.theatlantic.com/international/archive/2017/05/manuel-noriega-obituary-monroe-doctrine/518982/>.

¹⁷ Michael Reid, *Panama Counts the Cost of Being Saved From Noriega*, THE GUARDIAN (Dec. 20, 1990), Lexis Advance Database.

¹⁸ *Id.*; Kenneth Freed, *Heated U.S.-Panama Banking Feud*, L.A. TIMES (Dec. 27, 1990), Lexis Advance Database.

¹⁹ Peter Eisner, *One Year Later, Panama Seethes*, NEWSDAY (Dec. 20, 1990), Lexis Advance Database.

²⁰ *Id.*; Baena-Ricardo et al. v. Panama, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 72 (Feb. 2, 2001), <https://iachr.ils.edu/cases/baena-ricardo-et-al-v-panama>; Reid, *supra* note 17.

prejudice against indigenous peoples, immigrants, and other minorities.²¹ The government continued to displace indigenous communities to build hydroelectric dams and to ignore agreements to compensate the communities and provide them with new land.²² From 2001 to 2003, an Ecuadorian immigrant imprisoned for entering Panama illegally initiated a series of hunger strikes to protest Panama's poor prison conditions. In response, guards repeatedly beat him, then denied him medical care for his injuries, including a fractured skull.²³

Panama's most persistent problem remains corruption. Noriega's regime entrenched Panama as a center for money laundering by drug-traffickers, bribe seekers, and tax dodgers.²⁴ Panamanian officials have often been selective and hypocritical in tackling these problems. In 1996, an attorney defending businessman Walid Zayed on drug-related money laundering charges suggested in a phone call to Zayed's father that they issue a press release highlighting allegations that the Attorney General prosecuting Zayed had accepted campaign contributions from suspected drug traffickers. The allegations were later found to be false but the Attorney General was taping the phone call and initiated both civil and criminal defamation charges against Zayed's attorney.²⁵ Although Panama complied with an Inter-American Court of Human Rights judgment ordering them to overturn the conviction, by 2012 President Ricardo Martinelli was taking public swipes at Zayed, describing him as a Palestinian drug-trafficker who had fraudulently obtained Panamanian nationality.²⁶ By 2015, Martinelli himself had fled to a ritzy Miami suburb, attempting to escape a criminal investigation alleging that he had used public funds to spy on rivals, accepted bribes, and embezzled millions.²⁷ In 2016, leaked files from a Panamanian law firm revealed that politicians and other prominent figures worldwide were using Panamanian shell companies to evade taxes and launder money.²⁸ The press quickly dubbed the documents the "Panama papers", ensuring that Panama will continue to struggle to disassociate its name from corruption in the years to come.

More information

Additional background was provided by the sources below.

²¹ *Country Reports on Human Rights Practices for 2016: Panama*, U.S. DEPARTMENT OF STATE (2016), <https://www.state.gov/j/drl/rls/hrrpt/2016/wha/265604.htm>.

²² *Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano and their members v. Panama*, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 284 (Oct. 14, 2014), <https://iachr.ils.edu/cases/kuna-indigenous-people-madungandi-and-embera-indigenous-people-bayano-and-their-members-v>; *Country Reports on Human Rights Practices for 2016: Panama*, *supra* note 21.

²³ *Vélez Lóor v. Panama*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132 (Nov. 23, 2010), <https://iachr.ils.edu/cases/velez-loor-v-panama>.

²⁴ Graham, *supra* note 16.

²⁵ *Tristán Donoso v. Panama*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 193 (Jan. 27, 2009), <https://iachr.ils.edu/cases/tristan-donosov-panama>.

²⁶ *Tristán Donoso v. Panama*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (Sept. 1, 2010); Isidro Rodríguez, 'En este momento soy una víctima de la persecución': Walid Zayed, LA PRENSA (Oct. 19, 2012), http://www.prensa.com/isidro_rodriguez/momento-victima-persecucion-Walid-Zayed_2_3505919374.html.

²⁷ Azam Ahmed, *U.S. Takes Ex-Leader of Panama Into Custody for Possible Extradition*, N.Y. TIMES (June 13, 2017), <https://www.nytimes.com/2017/06/13/world/americas/panama-president-ricardo-martinelli-arrested-florida.html>.

²⁸ *What Are the Panama Papers?*, N.Y. TIMES (April 4, 2016) <https://www.nytimes.com/2016/04/05/world/panama-papers-explainer.html>.

For historical background, see the [Encyclopedia Britannica](#) and [BBC Country Profiles](#).

For an overview of the current human rights situation, see the [U.S. Department of State's 2016 Human Rights Report](#).

For information about human rights, including all relevant treaties and legal documents, see [Office of the High Commissioner for Human Rights](#).