



Costa Rica

Country Reports on Human Rights Practices - [2007](#)

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Costa Rica, a constitutional democracy with a population of approximately 4.3 million, is governed by a president and unicameral legislative assembly directly elected in free multiparty elections every four years. In February 2006 Oscar Arias Sanchez of the National Liberation Party (PLN) won the presidency in elections that generally were considered free and fair, as was an October national referendum on joining a major regional trade agreement. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, the following human rights problems were reported: substantial judicial process delays, particularly in pretrial detention and civil and labor cases; antiquated libel laws and excessive penalties for violations; domestic violence against women and children; child prostitution; and child labor.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings during the year; however, authorities investigated one death during police apprehension.

On April 28, a robbery suspect died in a supermarket after suffering blows to the face and body. Two private security guards handcuffed the man and waited for the police. When a police officer arrived, he informed headquarters that the man was behaving aggressively and had suffered blows. A confrontation allegedly led to the death of the suspect. A lower criminal court ordered the police officer to be held in preventive detention for four months, while an investigation was conducted to determine if he had participated in the beating. At year's end the case was pending.

At year's end one of the two former police officers arrested in May 2006 for assisting in the 2005 revenge killings of three persons remained in preventive detention; the other awaited trial.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution prohibits such practices and the government generally respected this prohibition, some members of the security forces committed abuses. Any statement obtained through violence is invalid, and the government investigated, prosecuted, and punished agents responsible for confirmed cases of abuse.

On June 13, authorities arrested two police officers on abuse of authority and robbery charges. At year's end they were in preventive custody while an investigation continued.

Appeals were pending in the case of four police officers found guilty in 2005 of abuse of authority for beating a suspect who resisted arrest.

The Ombudsman's Office lodged and recorded complaints of police misconduct and received 30 such complaints, 29 of which remained under investigation, while one was determined to be legitimate and forwarded for further investigation or prosecution. Of the 20 complaints received in 2006, eight remained under investigation, nine were closed with no action recommended (either because of insufficient evidence or because they were unfounded), and three were determined to be

legitimate. The ombudsman's investigation is a preliminary step, with any recommendation for action forwarded to the respective agency for investigation or follow-up.

On March 8, the Inter-American Commission on Human Rights (IACHR) found inadmissible a July 2006 Nicaraguan petition against Costa Rica that cited a 2005 incident in which seven public security officers allegedly witnessed but did not intervene when two guard dogs attacked a Nicaraguan. The case was closed.

Prison and Detention Center Conditions

Although the government continued to improve prison conditions during the year, isolated cases of overcrowding, as well as poor sanitation, lack of health services, and violence among prisoners remained problems in some prison facilities. The ombudsman's office investigated all complaints and referred serious cases of abuse to the public prosecutor. Illegal narcotics were readily available in the prisons, and drug abuse was common.

Recent expansions at several prison facilities reduced the countrywide prison population at midyear to within the system's capacity. San Carlos Prison reduced the number of inmates by 7 percent, which put it at capacity as of June 30. Authorities opened La Casona Prison in San Rafael for 120 minimum-security inmates and remodeled Poccoci, Liberia, and Buen Pastor prisons. As of October 31, there were 12,828 persons under supervision by the Ministry of Justice, including 7,819 jailed prisoners, 511 persons required to spend nights and weekends in jail, 3,987 persons in supervised work programs requiring no jail time, and 511 juveniles.

San Sebastian, where most prisoners in pretrial detention were held, continued to be overcrowded (about 115 percent of planned capacity) and unsanitary. To alleviate the overcrowding, some pretrial detainees were held with convicted prisoners in long-term detention facilities throughout the country.

Medical care at most facilities generally was adequate for routine illnesses and injuries. However, prisoners were referred to social services agencies for complex medical issues, such as HIV/AIDS, with consequent treatment delays.

While prisoners generally were separated by sex and by level of security (minimum, medium, and maximum), overcrowding sometimes prevented proper separation of prisoners of different security levels. As of June 30, the San Jose women's prison brought its inmate numbers to within capacity with the construction of two new units. Both Liberia and Perez Zeledon prisons added special sections for women.

The government permitted prison visits by international and local independent human rights observers, including representatives from the Ombudsman's Office. Human rights observers were allowed to speak with prisoners and to prison employees in confidence and without the presence of prison staff or other third parties.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The country has no military. The Ministry of Public Security was responsible for the general police force, the drug control police, the border police, and the coast guard. The Ministry of Public Works and Transportation operated the traffic police, and the government had mechanisms in place to investigate and punish abuse and corruption. However, court overcrowding and an antiquated legal system greatly slowed such action. There were no reports of impunity involving the security forces during the year, but the police forces' effectiveness was hampered by inadequate funding, equipment, and training.

Arrest and Detention

The law requires issuance of judicial warrants before making arrests, except where probable cause is evident to the arresting officer. The law entitles a detainee to a judicial determination of the legality of detention during arraignment before a judge within 24 hours of arrest. The law provides for the right to bail and prompt access to an attorney and to family members, and the authorities generally observed these rights in practice. Indigents are provided a public attorney at government expense; in practice even those with sufficient personal funds were able to use the services of a public defender. With judicial authorization, the authorities are able to hold suspects incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days.

A criminal court may hold suspects in pretrial detention for periods of up to one year, and the court of appeals may extend this period to two years in especially complex cases. The law requires that suspects in pretrial detention have their cases reviewed every three months by the court to determine the appropriateness of continued detention. According to the

Ministry of Justice, as of October 31, there were 1,854 persons in pretrial detention, representing 24 percent of the prison population.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. The legal system faced many challenges, including significant delays in the adjudication of civil disputes and a growing workload.

The judicial branch of government includes the upper and lower courts, the Judicial Investigative Police (OIJ), the Office of the Prosecutor, the Office of the Public Defender, forensic laboratories, and the morgue. The lower courts include courts of first instance and circuit courts. The Supreme Court is the highest court, with 22 justices known as magistrates. The legislative assembly elects those magistrates for eight-year terms, which are renewed automatically unless two-thirds of the assembly opposes such renewal. The Supreme Court elects the attorney general for a four-year term. The court publicly requests prospective candidates to submit their names, academic and professional records, and qualifications according to requirements established by law and then votes on the candidates after review of their qualifications.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

All trials, except those that include juvenile defendants, are public. A trial is presided over by a single judge or by a three-judge panel, depending on the potential penalties arising from the charges. Trials that involve victims or witnesses who are minors are closed during that portion of the trial where the minor is called to testify. There are no jury trials. Accused persons can select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent. The law provides for detainee and attorney access to government-held evidence, and defendants can question witnesses against them and present witnesses on their behalf. Defendants enjoy a presumption of innocence and, if convicted, have the right of appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

In December the IACHR confirmed that the petition former president Angel Calderon filed in 2005 for a review of the corruption case against him had not been admitted, as all local appeal procedures had not yet been exhausted.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters where lawsuits, including human rights violations, are brought. Administrative and judicial remedies for alleged wrongs are available.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such practices, and the government generally respected these prohibitions in practice. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in investigations of certain crimes, but legal guidelines are so restrictive that the use of wiretaps was rare.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Irregular enforcement of property rights and duplicate registrations of title harmed the real property interests of many who believed they held legitimate title to land. Landowners throughout the country suffered occasional squatter invasions; sometimes they received government assistance to evict squatters forcibly from private land.

In 2005 a trial court found 17 squatters guilty of usurpation in the 2004 Bambuzal case and prescribed a six-month suspended sentence. In January 2006 a criminal appeals court confirmed the sentence, and the case was closed.

In 2005 the Ombudsman's Office requested governmental action to title the land where feasible or to resettle 2,000 of the 4,500 families living on lots too small to be plotted or in dangerous areas of the squatter development of La Carpio. The office reported that the project would take several years to complete and might require legislation to reform the law on the housing financial system. The government's pretitling surveys continued.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press. Journalists and media company owners continued to criticize legislation that imposes criminal penalties, including lengthy jail sentences instead of civil fines, for common press infractions and argued that such legislation promoted self-censorship.

Under the law reporters are not required to reveal the identity of a source in any civil or criminal trial if the source has requested confidentiality. Reporters are allowed to defend themselves against libel charges by claiming that they were merely repeating a story published by foreign media. Libel convictions are punishable with fines or jail time.

The government modified the criminal procedures law to comply with a 2004 Inter-American Court of Human Rights ruling that the government should reform within a reasonable amount of time the press freedom laws on media prosecution. In August a civil tribunal ordered the government to pay \$123,000 (63.8 million colones) to a daily newspaper to comply with the ruling.

The law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Media managers reported that it was difficult to comply with provisions of this law. The provisions outline a series of "insult laws" that establish criminal penalties of up to three years in prison for those convicted of insulting the honor or decorum of a public official. The law also identifies defamation, libel, slander, and calumny as offenses against a person's honor that can carry criminal penalties.

In July the Constitutional Chamber of the Supreme Court overturned a decision by the social security system that prevented employees from giving press interviews.

In August a trial court found two journalists not guilty of "offenses against the honor, defamation, and slander," stemming from their 2004 report critical of some social security officials' alleged use of public vehicles and overtime payment for a private event.

In March officials from the State Television System (SINART) did not renew the contract for a television commentary program. The program's director claimed the reason was political, while SINART officials asserted that it was administrative.

In December a court convicted two of the defendants in the 2001 killing of radio host Parmenio Medina of murder and other related charges and sentenced them to 47 and 30 years in prison respectively. It acquitted the other defendants of murder but found one guilty of fraud in the case and sentenced him to 15 years in prison.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom.

The Commission on Control and Rating of Public Performances rates films and has the authority to restrict or prohibit their showing if it is determined that the films are pornographic or violent in nature, or incite crime or vice. The commission has similar powers over television programs, radio programs, and stage plays. In addition the commission regulates the sale and distribution of written material deemed pornographic, enforcing specific packaging and display regulations. A tribunal reviews appeals of the commission's actions.

At year's end the IACHR was considering a petition it accepted in 2005 on a case alleging censorship, brought by the owner of a local tabloid magazine closed by the government in 2004 for printing seminude photographs in 2003 without rating commission approval.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

Besides notaries public, only officials of the Roman Catholic Church may perform marriages that are automatically recognized by the state. Other religious groups can perform wedding ceremonies, but the marriage must then be legalized by a civil union. Couples may also choose to have only a civil ceremony.

Although Roman Catholic religious instruction is provided in the public schools, it is not mandatory, and students may obtain exemptions from the instruction with the permission of their parents. The school director, the student's parents, and the student's teacher must agree on an alternative course of instruction for the exempted student during the instruction time. Religious education teachers in public schools must be certified by the Roman Catholic Church Conference, which does not certify teachers from other denominations or faiths. In January the Supreme Court rejected an argument from an individual plaintiff that this requirement was contrary to the constitution's protection of work as an individual right.

The August 2006 immigration law changed certain procedures for religious workers seeking residency. Under interim guidelines missionaries must apply for a residency permit in their country of origin and belong to a religious organization accredited by the Ministry of Foreign Affairs and Religion. The General Directorate of Immigration may grant a temporary permit ranging from 90 days to two years. A September 2006 agreement allowed Catholic religious workers to apply for religious visas once they arrived in the country, rather than in the country of origin.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination, including anti-Semitic acts, during the year. There was a small Jewish population.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law requires that adults carry national identification cards at all times. Persons who fail to produce such documents at security checkpoints may be detained until their identity and immigration status are verified.

The constitution prohibits forced internal or external exile, and it was not used in practice.

Protection of Refugees

The law and a series of executive decrees provide for the granting of asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. The government granted refugee status or asylum and cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

The Refugee Department, a new entity within the General Directorate of Migration, is in charge of refugee status determination. The law requires refugee applications to be adjudicated within a month of receipt.

According to UNHCR, there were 11,500 recognized refugees in the country, most of them from Colombia, as well as 300 asylum seekers and 5,000 "persons of concern." In August the security ministry and the Colombian government closed a joint investigation into whether any of the approximately 10,000 Colombian refugees living in the country had obtained refugee status under false pretenses. In 2006 the UNHCR had characterized this effort as a violation of the confidentiality principle refugees should enjoy, but the investigators indicated that there was no evidence or reports of abuse originating from this information sharing, and the UNHCR agreed with the findings. The government closed its old refugee office and implemented a new "reformed" asylum system as a result of the corruption scandal uncovered during the joint investigation.

Stateless Persons

There were occasional problems of statelessness in the border areas with Panama and Nicaragua. Members of the Ngobe-Bugle indigenous group from Panama came to work on Costa Rican plantations, and sometimes their children were born in fields. In these cases the children were not registered as Costa Rican citizens because the families did not think it was necessary to register the birth, but when the family returned to Panama, the children were not registered there, either.

A similar problem occurred with Nicaraguan families that migrated to work in coffee plantations. However, the government attempted to advise the migrant population to register at birth children born in the country.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage and by secret ballot every four years. The independent Supreme Electoral Tribunal ensured the integrity of elections, and the authorities and citizens respected election results. Presidents may seek reelection after sitting out two subsequent four-year terms, and assembly members may seek reelection after at least one term out of office. Political parties operated without restriction or outside interference.

Elections and Political Participation

In the 2006 national elections, Oscar Arias of the PLN won the presidency in elections that generally were considered free and fair. In October the country held its first national referendum, on joining the U.S.-Central America-Dominican Republic Free Trade Agreement, which was also considered to be generally free and fair. The Supreme Electoral Tribunal reviewed a few complaints of fraud and determined them to be unfounded.

The Supreme Electoral Tribunal requires that a minimum of 40 percent of candidates for elective office be female and that women's names be placed accordingly on the ballots by party slate. The first vice president (who was also the minister of justice), and the ministers of science and technology, health, culture, and public works were women. There were 21 women in the 57-seat legislative assembly, including seven legislative committee chairwomen and the heads of three of the four major party caucuses.

Indigenous persons did not play significant roles in politics or government except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. There were no indigenous members in the legislative assembly.

There was one black member in the assembly. There were no indigenous or black members of the cabinet.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. However, according to the World Bank's worldwide governance indicators, government corruption was a problem, and there were isolated reports of government corruption during the year.

The government continued to pursue allegations of corruption against the executive branch. Two former presidents, Rafael Angel Calderon and Miguel Angel Rodriguez, remained under investigation for separate and unrelated cases of suspected corruption. In March the Prosecutor's Office formally filed charges against Calderon and the board of directors of the social security fund in a 2004 corruption case, and preliminary hearings began in August. In August the Prosecutor's Office also filed corruption charges against Rodriguez; as of year's end the court had not set a date for a preliminary hearing. In October the Attorney General's Office closed for lack of evidence a case against former president Jose Maria Figueres Olsen regarding kickbacks received from his former company.

Public officials are subject to a 2004 law against corruption and illicit enrichment in the public service. This law requires senior officials to submit sworn declarations of income, assets, and liabilities. The public ethics prosecutor, the comptroller general, the attorney general, and the ombudsman are all responsible for combating government corruption. The main function of the public ethics prosecutor is to take the administrative steps necessary to prevent, detect, and eradicate corruption and to raise ethical and transparency standards in the public service.

The law provides for public access to government information, and the government generally respected this right. Government institutions published reports that detailed the year's activities. The Ombudsman's Office operated a Web page dedicated to enhancing transparency by improving citizen's access to public information.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The national Ombudsman's Office has five regional offices and a staff of approximately 150 employees to oversee actions

or inaction by the government that affect the rights and interests of citizens, which includes human rights advocacy. The ombudsman is accountable to the legislative assembly, which appoints him or her to a four-year term and funds the office's operations. The ombudsman plays an active role in the drafting and approval process of legislation, promotes good administration and transparency, and presents an annual report to the assembly with nonbinding recommendations. While the ombudsman's recommendations and decisions are not legally enforceable, the position carried a strong moral and symbolic weight in the country.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these prohibitions effectively.

Women

The law defines various types of rape and provides penalties dependent upon a victim's age and other factors such as an assailant's use of violence or position of influence over the victim. The law provides for penalties from 10 to 18 years in prison for rape and two to 10 years in prison for statutory rape. The judiciary effectively enforced the rape law and provided due process for both victim and defendant. According to the autonomous National Institute for Women (INAMU), the rape law applies to spousal rape, although spousal rape cases in practice were much more difficult to prove.

Authorities acknowledged that many known rape cases were not investigated due to reluctance by the victim or family of the victim to press charges against perpetrators. According to the prosecutor's Special Sexual Crimes and Domestic Violence Unit in San Jose, during the first six months of the year, 159 rape cases were reported.

The government continued to identify domestic violence against women and children as a serious and growing societal problem. The law prohibits domestic violence and provides measures for the protection of domestic violence victims. Criminal penalties range from 10 to 100 days in prison for aggravated threats and up to 35 years in prison for aggravated homicide. In May a law that penalizes violence against women and establishes a 20- to 35-year prison sentence for men who kill their partners took effect. The law also provides for alternative sanctions (such as weekend detentions) and assistance such as referrals for social services.

The Special Prosecutor's Office for the San Jose area investigated a total of 1,698 cases, compared with 1,110 cases in 2006. During the year INAMU provided counseling to 5,823 women. INAMU reported that 16 women and girls were killed in incidents of domestic violence, compared with 35 victims during all of 2006. INAMU also maintained a domestic abuse hot line.

The law against domestic violence established a number of victim-assistance mechanisms including basic training for new police personnel on handling domestic violence cases, requiring public hospitals to report cases of domestic violence against women, and denying perpetrators possession of the family home in favor of the victim. The public prosecutor, police, and ombudsman had offices dedicated to this problem.

Prostitution is legal for persons over the age of 18 and was practiced openly throughout the country, particularly in areas with heavy concentrations of foreign tourists. The penal code prohibits individuals from promoting or facilitating the prostitution of persons of either sex, regardless of the person's age, and the penalty is increased if the victim is under the age of 18. There are no specific laws against sex tourism, which was growing; however, law enforcement agencies initiated investigations under existing legislation. The government and several advocacy groups also continued awareness campaigns publicizing the dangers of sex tourism and its association with child sexual exploitation. Approximately 200 tour companies signed a conduct code as part of a global initiative against the commercial sexual exploitation of children, promoted by the World Tourism Organization and End Child Prostitution in Asian Tourism.

The law prohibits sexual harassment in the workplace and educational institutions, and the Ministry of Labor generally enforced this prohibition. The law imposes penalties ranging from a letter of reprimand to dismissal, with more serious incidents subject to criminal prosecution. By August 9, the Ombudsman's Office received 48 complaints of sexual harassment in the workplace, compared with 52 complaints in all of 2006.

The law prohibits discrimination against women and obligates the government to promote political, economic, social, and cultural equality. The government maintained offices for gender issues in most ministries and parastatal organizations. The Ministry of Labor was responsible for investigating allegations of gender discrimination. INAMU implemented programs that promoted gender equality and publicized the rights of women.

In July the census institute reported that women represented 37.2 percent of the labor force. Approximately 4.4 percent worked in agriculture, 12.8 percent in manufacturing, and 82.6 percent in the service sector. According to a 2006 UN Development Program (UNDP) report, women occupied 40 percent of professional and technical positions and 26 percent of high-level legislative, senior official, and managerial positions. The law requires that women and men receive equal pay

for equal work; however, the UNDP report estimated that earned income for women was approximately 46 percent of the earned income for men, although the study was based on general employment rather than equal pay-equal employment. This proportion reflected the fact that most women's jobs were in traditionally lower-paid sectors (domestic and clerical workers, as opposed to professional or industrial).

Children

The government was committed to children's rights and welfare through systems of public education and medical care. Primary education is compulsory, free, and universal. The law requires six years of primary and three years of secondary education for all children, and attendance is required until age 15.

There is a nominal cost for books, supplies, and uniforms, which some low-income families were unable to pay, contributing to the drop-out rate. The government sponsored programs such as "Avancemos," which included a monetary reward to offset these costs and to encourage drop-outs to return to school with minimum economic hardship. As of November, 94,621 adolescents participated in the Avancemos program, compared with 8,068 adolescents at the end of 2006.

The Ministry of Education reported that the estimated primary school dropout rate was 3.8 percent and the secondary school dropout rate was 13.2 percent; these figures were based on actual registration and did not reflect students who failed to register at the beginning of the school year. UNDP reported that women had the same enrollment rates in the formal educational system as men; women's school drop-out rates were lower than men's; and women had higher net rates of access, permanency, and academic performance than men in secondary and college education.

The law provides equal access to education and health care services to all minors, regardless of gender or legal residency status.

In recent years the autonomous National Institute for Children (PANI) increased public awareness of abuse of children, which remained a problem. The prosecutor's Special Sexual Crimes and Domestic Violence Unit in San Jose received reports of 172 cases of sexual abuse of minors and 19 cases of child prostitution during the first six months of the year. From January 1 to March 31, PANI assisted 936 children and adolescents, including 592 cases of physical abuse and 310 cases of sexual abuse. Traditional attitudes and the inclination to treat sexual and psychological abuse as misdemeanors occasionally hampered legal proceedings against those who committed crimes against children.

The government, security officials, and child advocacy organizations acknowledged that commercial sexual exploitation of children remained a serious problem. PANI estimated that a significant number of children suffered from commercial sexual exploitation. Street children in the urban areas of San Jose, Limon, and Puntarenas were particularly at risk. During the first three months of the year, PANI reported that it provided assistance to minors in 34 separate cases of commercial sexual exploitation. In July President Arias signed an amendment to the law against commercial sexual exploitation that added sanctions for possession of child pornography, strengthened protection of children less than 14 years of age, and extended the statute of limitations for child abuse. In addition PANI adopted a program of integral care of children and adolescents at risk and in vulnerable situations, combined with a program to help adolescent mothers return to school.

Child labor was a problem mainly in the informal sector of the economy.

Trafficking in Persons

Although the law prohibits transnational human trafficking for purposes of prostitution or forced labor, including minors, it does not adequately address internal trafficking of adults. Lack of a comprehensive antitrafficking law inhibited the government's ability to prosecute and convict traffickers, and prosecutors relied on several criminal statutes to bring traffickers to justice. There were reports that persons, particularly women and minors, were trafficked to, from, and within the country, most often for commercial sexual exploitation. The government identified child sexual tourism as a serious problem.

Cases of trafficking involved persons from Nicaragua, Dominican Republic, Colombia, Panama, Russia, Bulgaria, and the Philippines. While evidence suggested that most trafficked persons remained in the country, some transited to Canada, Guatemala, Mexico, Japan, and the United States. Women and children were trafficked within the country for sexual exploitation, while men, women, and children were also trafficked within the country for forced labor as domestic servants, agricultural workers, and workers in the fishing industry. Traffickers often lured victims, generally from impoverished backgrounds, with a promise of secure employment and good pay. Chinese nationals were trafficked to the country in bonded indebtedness for exploitive labor.

The law explicitly criminalizes the transnational trafficking of persons for the purpose of prostitution or forced labor with a three- to six-year prison sentence. Prosecution of domestic trafficking cases was limited to crimes--usually sex offenses--that are addressed in specific statutes, such as having sex with minors or pimping. The law provides sentences of

between two and 10 years' imprisonment for anyone who engages in sex with a minor, and between four and 10 years' imprisonment for managing or promoting child prostitution.

In 2006 the OIJ opened five investigations into international trafficking organizations and continued a number of earlier investigations. In January authorities arrested eight persons in connection with an organization suspected of trafficking Chinese to the country for labor exploitation and charged them with extortion; there was insufficient evidence to accuse them of trafficking. Dismantling this organization closed two of the OIJ investigations; three were pending at year's end. The OIJ opened seven new investigations into trafficking in persons and 14 cases of alien smuggling, but there was no information available about the status of these investigations.

While there were limited formal mechanisms specifically designed to aid trafficking victims, the government offered temporary shelter services to minors, in addition to emergency medical care and legal assistance to adults. The government also provided indirect assistance, such as stay-in-school programs, to child victims of trafficking, and provided funds to an NGO working with victims of sexual exploitation. As in 2006 some foreign nationals were not identified as trafficking victims, were not granted temporary or permanent residence status, and often were deported immediately to their countries of origin, where they faced possible reprisals from traffickers or risked being re trafficked.

Government agencies responsible for combating trafficking and child sexual exploitation included the special prosecutor on domestic violence and sex crimes, PANI, the foreign ministry, the labor ministry, the public security ministry, the tourism ministry, and the OIJ, which has an investigative unit dedicated solely to trafficking in persons.

President Arias publicly condemned human trafficking, and the government acknowledged the serious nature of the problem, especially the sexual exploitation of minors. Campaigns against child sex tourism continued, in addition to television, radio, and billboard notices designed to warn young women of the dangers of commercial sexual exploitation. With international assistance, the government launched a national hot line in February for potential victims to receive information about trafficking, accompanied by a widespread television and radio campaign.

In July the government adopted a Third National Five-Year Plan of Action against Commercial Sexual Exploitation of Minors, a more technical approach that incorporates some of the recommendations by the UN Committee on the Rights of the Child.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical and mental disabilities in employment, education, health care access, or provision of other state services, and there were no reports of in education or in the provision of other state services. There were no reports of employment discrimination, but the Ombudsman's Office reported that, due to poor facility access and entrenched business practices, discrimination occurred.

Although a 1996 law mandates access to buildings for persons with disabilities and established a 10-year deadline for the government to make necessary installations and upgrades, the government did not enforce this provision in practice, and many buildings remained inaccessible to persons with disabilities. Public transportation services improved access slightly for wheelchair-bound passengers. However, only 6 percent of buses complied with the accessibility regulations in 2006, and the Ministry of Transportation was revising a manual governing accessibility of public transportation. The Ombudsman's Office received 60 complaints about violations of the law that protects equal opportunities for persons with disabilities, which were processed and investigated.

The Ministry of Education continued to operate a program for persons with disabilities, including a national resource center that provided parents, students, and teachers with advanced counseling, training, and information services. There were 26 special education centers exclusively to assist special education students and students with disabilities and 36 centers for adults with disabilities. In addition, 1,619 primary schools and 132 secondary schools had programs to provide some support to students with disabilities.

National/Racial/Ethnic Minorities

The country's 100,000 blacks, who mostly resided in the province of Limon, enjoyed full rights of citizenship, including the protection of laws against racial discrimination. There were no reports made to the Ombudsman's Office of racial discrimination against blacks. Approximately 15 percent of the resident black population was foreign born.

There were sporadic reports of discrimination, usually directed against Nicaraguans, but there were no government-endorsed patterns of discrimination.

Undocumented immigrants received medical care, including prenatal and maternity care, at public health centers. However, they were sometimes denied discretionary or long-term medical care because they were not participants in the national health care insurance program.

Indigenous People

Indigenous people, comprising nearly 70,000 persons among eight ethnic groups, accounted for nearly 2 percent of the population. While indigenous persons were not subject to official discrimination, social and health network gaps diminished their quality of life. Approximately 73 percent of the indigenous population lived in traditional communities on 24 reserves, which because of their remote locations often lacked access to schools, health care, electricity, and potable water. The housing ministry estimated that only 27 percent of the indigenous population lived in homes considered to be in good condition, mainly due to reluctance to move from primitive huts into more modern housing. Few government health care facilities were established in indigenous reserves. The law nominally protects reserve land as the collective, nontransferable property of the indigenous communities. Some indigenous landowners, however, sold their land to pay off debts, sometimes illegally to nonindigenous persons. The ombudsman had a unit dedicated to investigating violations of the rights of indigenous persons and sought to return reserve land to indigenous groups.

At year's end nonindigenous property owners continued to hold title to land on approximately 40 percent of the reserves legally set aside for indigenous occupation. The law requires that the government purchase all pre-existing land titles within the reserves in order to secure exclusive use and ownership rights for the indigenous populations.

Other Societal Abuses and Discrimination

Although there are no laws prohibiting discrimination against persons based on sexual orientation, discrimination based on HIV/AIDS in health care, employment, and education was prohibited by law and by presidential decree. The Ombudsman's Office received one report complaining of such discrimination during the year. In April the president and the minister of health signed an order derogating a 1990 decree that established a prohibition for HIV/AIDS high risk persons from donating blood, plasma, and body organs and tissues.

Section 6 Worker Rights

a. The Right of Association

The law specifies the right of workers to join unions of their choosing without prior authorization, and workers exercised this right in practice. The law also provides for the right not to join a union and to leave a union and accordingly prohibits any action that might infringe that right. In June the Ministry of Labor reported that approximately 9 percent of workers were unionized.

Some trade union leaders contended that the existence of worker "solidarity associations" in some enterprises displaced unions and discouraged collective bargaining. The law prohibits these non-dues-collecting associations from representing workers in collective bargaining negotiations or in any other way that assumes the functions of or inhibits the formation of trade unions. Solidarity associations offered membership services, including credit union programs, matching-fund savings accounts, and low-interest loans. As of June 30, solidarity associations had approximately 225,000 members, 81 percent of whom worked in the private sector. Unions considered a pattern of firing employees who wanted to unionize a valid concern. However, solidarity associations were utilized freely by private sector employees, and the International Labor Organization (ILO) found no wrongdoing in this area in its report published during the year.

The center for alternative resolution of labor disputes handled 3,219 cases during the first six months of the year, 75 percent of which resulted in an agreement between the parties. The government opened conciliation centers, one in San Jose and two in rural areas, to resolve conflicts without having to hire a lawyer and to remove some cases from the courts' overcrowded dockets, which covered many areas including labor disputes.

Due to complex procedures, the process for filing labor grievances continued to be extremely slow. The ILO reported that antiunion activity cases took four years to reach judgment. Additionally, according to the International Trade Union Congress (ITUC), reinstating a wrongfully dismissed employee took three or more years.

The Ministry of Labor continued to train arbitrators and to educate workers and unions on labor rights, in order to reduce backlogs caused by the lengthy labor dispute resolution process.

b. The Right to Organize and Bargain Collectively

Workers exercised the constitutional right to organize and the right to voluntary collective bargaining. Foreign nationals are expressly prohibited from exercising direction or authority in unions. There are no special laws or exemptions from regular labor laws in export processing zones.

The law requires employers to initiate the bargaining process with a trade union if at least 34 percent of the workforce requests collective bargaining, and the government enforced this law in practice.

Although private sector unions had the legal right to engage in collective bargaining with employers, direct bargaining arrangements between employers and unorganized workers occurred more commonly.

The ITUC stated that the Constitutional Court deemed numerous provisions of collective agreements illegal, including severance pay, bonuses, and wage increases. These accounted for 12 percent of 122 contested clauses, but 62 percent were pending.

The law provides for the right to strike, and workers exercised this right in practice; however, unions complained of burdensome administrative requirements for a strike to be legal. The law requires that at least 60 percent of the workers in an enterprise support strike action. Restrictions on the right to strike apply only to essential services that concern the national economy or public health.

In May 2006 the Supreme Court repealed specific sections of collective bargaining agreements between several public employee unions and various government agencies, stating that some fringe benefits received by certain public employees were disproportionate and unreasonable. An ILO commission visited in October 2006 to consider these rulings, and its 2007 report found the government to be compliant with international law and standards in labor practices.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, but some reports were under investigation at year's end.

d. Prohibition of Child Labor and Minimum Age for Employment

The law provides special occupational protection for minors and establishes a minimum working age of 15 years. Adolescents between the ages of 15 and 18 may work for a maximum of six hours daily and 36 hours weekly with special permission from PANI. The law prohibits night work and overtime for minors. Certain activities considered to be unhealthy or hazardous typically require a minimum age of 18. In addition working minors are entitled to attend educational establishments through school arrangements and timetables adapted to their interests and employment conditions, and to participate in apprenticeship training programs. According to the ILO, however, working minors aged 15-18 received less than the minimum wage, which was corroborated by the chief of the Office for the Eradication of Child Labor (OATIA).

The Ministry of Labor, in cooperation with PANI, generally enforced these regulations effectively through inspections in the formal sector; the regulations were not effectively enforced in the informal labor sector as a result of inadequate resource allocations by the government.

Child labor continued to be a problem in formal and informal agricultural operations, especially among the indigenous population. For example, 80 percent of the Ngobe-Bugle group on the Panama border migrate to Costa Rica for seasonal work, and since all members of families travel together, some of their children worked with the rest of the family, even though the government offers schooling to children of migrants. Child labor was also used in domestic work and family-run enterprises. Child prostitution and other types of child sexual exploitation remained serious problems.

The labor ministry's OATIA was responsible for coordinating government efforts and programs targeted at child labor. The ILO's International Program on the Elimination of Child Labor continued operating programs as part of a seven-year regional effort to combat commercial sexual exploitation of children. An international NGO collaborated with several local civil society groups in executing a program to strengthen the capacity of the government and civil society to **withdraw and prevent children from hazardous labor through the provision of educational services**.

OATIA conducted seven projects in coordination with public and private institutions. These projects were geared toward improving life and work conditions of indigenous and migrant groups, eradication of child labor and adolescent protection, protection of at-risk children, and in general improving life and work conditions of adolescents.

e. Acceptable Conditions of Work

The law provides for a minimum wage, which is set by the national wage council, which updates levels annually based upon inflation and other factors. Monthly minimum wages for the private sector ranged from approximately \$185 (91,847 colones) for domestic employees to approximately \$715 (355,009 colones) for university graduates. The Ministry of Labor effectively enforced minimum wages in the San Jose area but was not generally effective in enforcing the wage laws in rural areas, particularly those where large numbers of migrants were employed. The national minimum wage did not provide a decent standard of living for a worker and family.

The constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Workers generally may work a maximum of 48 hours weekly. While there is no statutory prohibition against compulsory overtime, the labor code stipulates that the workday may not exceed 12 hours under any circumstances. Nonagricultural workers receive an

overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers did not receive overtime pay if they worked voluntarily beyond their normal hours. Hourly work regulations generally were enforced in the formal labor market in San Jose but were enforced poorly in rural areas and in the informal sector. In April the IACHR accepted a petition against the government asserting that the long working hours required from substitute mothers at PANI shelters violated the American Convention on Human Rights.

While the Ministries of Labor and Health shared responsibility for drafting and enforcing occupational health and safety standards, they did not enforce these standards effectively. The law requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the government to inspect workplaces and to fine employers for violations. Most firms subject to the law established such committees, but they either did not use the committees or did not turn them into effective instruments for improving workplace conditions. Resource constraints continued to hinder the labor ministry inspection directorate's ability to carry out its inspection mandate. Workers who consider a work condition to be unhealthy or unsafe must make a written request for protection from the Ministry of Labor or the Ministry of Health in order to remove themselves from the condition without jeopardizing their continued employment.

