

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR
2009 Country Reports on Human Rights Practices
March 11, 2010

Costa Rica, a constitutional democracy with a population of approximately 4.5 million, is governed by a president and the unicameral Legislative Assembly, whose members are directly elected in multiparty elections every four years. In 2006 Oscar Arias Sanchez of the National Liberation Party (PLN) won the presidency in elections that were generally considered free and fair. 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, criminal, and labor cases; excessive penalties for violations of libel laws; domestic violence against women and children; child prostitution; trafficking in persons; 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

The government or its agents did not commit any politically motivated killings. However, on May 25, authorities detained one officer and one former officer of the police intervention unit (UIP) as suspects in two killings, one of which occurred in 2006 and the other in 2007.

There were no developments in the 2008 case of two officers from the uniformed police who allegedly assisted in killing two persons. Authorities administratively suspended the two officers from their jobs without pay while in preventive detention, and the case remained pending at year's end.

A judicial investigation in the case of a police officer involved in the 2007 shooting death of robbery suspect continued at year's end. The officer was dismissed from duty in September 2008.

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 February 25 and July 25, there were two separate complaints against Judicial Investigative Police (OIJ) agents for abuse of authority. In the first incident, the agents used excessive force when they detained a student who had not obeyed an order to stop. In the second case, two OIJ agents stopped a car at gunpoint without identifying themselves, leading the occupants to believe it was an attempted carjacking.

During the year the Ombudsman's Office recorded 48 complaints of police abuse; at year's end 18 complaints remained under investigation and 30 had been resolved. The ombudsman conducts investigations as a preliminary step, with any recommendation for action forwarded to the respective agency for investigation or follow-up.

Prison and Detention Center Conditions

Although the government continued to improve prison conditions during the year, overcrowding, 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.

The country's prison population sharply increased during the year due to new legislation and expedited court procedures. As a result, the Justice Ministry's Social Adaptation Division on October 30 reported a total prison population of 16,368 and indicated that on average prison populations exceeded designed capacity by 3 to 4 percent.

The San Sebastian, San Carlos, Cartago, Liberia, Perez Zeledon, and Puntarenas prisons remained overcrowded, with the population in pretrial detention experiencing the most overcrowding. In San Sebastian, where most prisoners in

pretrial detention were held, 629 prisoners lived in an unsanitary facility with a capacity of 588. To mitigate these conditions, some pretrial detainees were held with convicted prisoners in long-term detention facilities throughout the country.

Medical care at most facilities was generally adequate for routine illnesses and injuries; starting in August there was a doctor on duty at all prisons. However, prisoners were referred to the social service system for complex medical issues, such as HIV/AIDS, with consequent treatment delays.

Prisoners generally were separated by gender and level of security (minimum, medium, and maximum), but overcrowding sometimes prevented proper security-level separation.

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

In February two newly constructed prison units with a capacity for 384 inmates went into service, thus lessening overcrowding.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The country has no military. Thirteen agencies have law enforcement components, including the OIJ (under the Justice Ministry). The Ministry of Public Security is responsible for the uniformed police force, the drug control police, the border police, and the coast guard. The Ministry of Public Works and Transportation operates the traffic police. The police force's effectiveness was hampered by inadequate funding, equipment, training, and lack of police professionalism.

The government has mechanisms in place to investigate and punish abuse and corruption; however, court backlogs and an antiquated legal system greatly slowed such action. Citizens may report abuse of authority or police corruption through various accessible mechanisms. Officers are entitled to a disciplinary investigation, oral hearing, and board review in administrative cases. For criminal charges, cases go to the judicial branch. There were no reports of impunity involving the security forces during the year.

The Legal/Disciplinary Department of the Ministry of Public Security has primary responsibility for investigating complaints of police abuse. In 2008 the Legal/Disciplinary Department opened 194 files of investigation on possible police abuses (of all types). As of July 17, 99 of those cases had been resolved and 95 were pending. As of July 17, the Legal/Disciplinary Department opened 84 cases of police abuse; 15 were resolved and 69 remained pending. The majority of complaints related to corruption, domestic abuse, use of illegal drugs, falsification of documents, and misuse of official vehicles (such as transporting family members or friends). In the 18-month period ending in June, authorities dismissed more than 100 uniformed police as a result of these activities.

Arrest Procedures and Treatment While in 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 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 may 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 cases of suspects in pretrial detention be reviewed every three months by the court to determine the appropriateness of continued detention. On July 22, President Arias signed a law against organized crime. Under this new law, if a judge declares a case to be related to organized crime, special procedural rules apply, extending the maximum period of preventive detention from 12 months to 24 months, with the statute of limitations being 10 years from the date of the last crime.

According to the Ministry of Justice, as of October 30, there were 2,628 persons in pretrial detention, constituting approximately 16 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. In 2008 there were 176,000 criminal complaints registered with the judicial branch, of which only 7,600 were brought to trial, with a conviction rate of 50 percent.

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. There are no jury trials. 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. 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 during trials 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. The law extends these rights to citizens and noncitizens alike.

Authorities continued to expand the use of fast-track courts in the provinces to speed up prosecution of criminal cases in which an individual is arrested while committing the crime. The first such court began function in the Second Circuit of San Jose in October 2008.

On July 9, the Inter-American Court of Human Rights ruled that reforms to the judicial appeals system did not comply with the Inter-American Convention on Human Rights. This clarified a 2004 Inter-American Court ruling that required the government to reform its appeals system. On October 15, the government submitted a compliance report on the actions taken to adhere to the judgment.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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

Property Restitution

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Property rights were irregularly enforced and duplicate registrations occurred. More than 500 cases of purported title fraud involving 30 public notaries remained under investigation at year's end.

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 new law against organized crime, enacted on July 22, reformed the electronic surveillance procedures by mandating the creation of a communications investigation center under the judicial branch to run all wiretapping. The center was under construction at year's end.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. The independent media were active and expressed a wide variety of views without restriction.

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.

The law does not require reporters to reveal the identity of a source in any civil or criminal trial if the source has requested confidentiality. Reporters may 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 law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Media managers considered that it was difficult to comply with provisions of the law, which include a series of "insult laws" establishing 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.

On February 19, the Supreme Elections Tribunal (TSE) issued a resolution that applies political campaign rules to Internet advertising, specifically relating to legal campaign periods. Under the provision, candidates may actively campaign via the Internet only in the two months prior to their party primaries; this conforms to regulations placed on traditional campaign media.

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. The International Telecommunication Union reported that there were 32 Internet users per 100 inhabitants in 2008.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

The Commission on Control and Rating of Public Performances rates films and has the authority to restrict or prohibit the showing of films deemed pornographic or violent in nature or likely to incite crime or vice. The commission has similar powers over television and 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.

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. The constitution establishes Roman Catholicism as the state religion and requires that the state contribute to its maintenance.

Besides notaries public, only officials of the Catholic Church may perform marriages that are automatically recognized by the state. Other religious groups can perform wedding ceremonies, but the marriage must be legalized by a civil union, or couples may choose only a civil union.

Religious groups must be accredited with the Ministry of Foreign Affairs and Religion to be eligible for temporary residency for their foreign missionaries and employees and to petition for legal recognition of religious holidays.

Religious organizations must submit applications to the local municipality to establish a place of worship and must comply with safety and noise regulations established by law. A 2007 executive order granted a two-year grace period for existing facilities to comply with the ruling. In July the Evangelical Alliance Federation requested a one-year extension from the Ministry of Health because only 25 percent of churches complied with the regulations; the Ministry of Health granted the extension via executive order. The Evangelical Alliance Federation reported that the government continued to close some non-Catholic churches for noise and other code violations, although other non-Catholic leaders did not complain of church closings.

Societal Abuses and Discrimination

There were a few minor reports of societal abuses or discrimination based on religious affiliation, belief, or practice, including some cases of anti-Semitic verbal abuse in public and occasional instances of anti-Semitic graffiti during the year. There were an estimated 3,000 Jews in the country according to the Jewish Zionist Center.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/.

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

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

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.

Protection of Refugees

The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and its laws provide for the granting of asylum or refugee status. The government has established a system for providing protection to refugees, and it granted refugee status or asylum. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The General Directorate of Immigration is in charge of refugee status determination. The law requires claims to be adjudicated within three months of receipt; however, in practice decisions took from six to eight months, and as of August there were 80 cases on appeal. Applicants cannot work legally until the Directorate approves their cases.

According to the UNHCR, there were approximately 11,900 recognized refugees in the country at year's end, the majority from Colombia, as well as 300 asylum seekers. The General Directorate of Immigration reported 8,527 refugees as of June 30. (The difference can be attributed to the fact that once refugees obtain permanent residency in the country, the General Directorate no longer counts them as refugees.) There were also 5,500 "persons of concern" in need of international protection.

The General Directorate of Immigration reported that 262 of 614 asylum requests, or 42 percent, were approved during the first six months of the year.

The UNHCR worked to counter the incorrect perception of Colombian refugees as narcotics traffickers, criminals, or members of the Revolutionary Armed Forces of Colombia. The UNHCR launched two awareness campaigns, both worldwide and on the local level; one was the "Einstein was a refugee" campaign and the other was for World Refugee Day on June 20.

The government provides medical assistance (through the social security system) and other benefits to refugees.

On August 19, President Arias signed a new immigration law, to take effect in February 2010, that creates a separate office within the General Directorate of Immigration to deal specifically with refugee issues. The law also clarifies and strengthens the application appeal process and removes or lowers some of the financial costs involved with the refugee application process.

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 rudimentary structures on the plantations. In these cases the children were not registered as Costa Rican citizens because the families did not think it necessary to register the births, but when the families returned to Panama, the children were not registered there either. A similar problem occurred with Nicaraguan families that migrated to work on coffee plantations. The government attempted to advise the migrant population to register at birth all 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. On August 19, President Arias signed a law to reform the Electoral Code, which will be implemented in the 2010 national elections. The new law prohibits campaign donations from corporations and reduces the amount of state campaign financing of political parties. The law also requires that, starting in 2014, 50 percent of Legislative Assembly candidates on party lists be female.

The TSE 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 government, police and public security, science and technology, health, and culture were women; the first vice president resigned in October 2008 to run for president. There were 20 women in the 57-seat Legislative Assembly, including nine legislative committee chairwomen.

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 or the cabinet. There was one black member in the Legislative Assembly but none in the cabinet.

SECTION 4 OFFICIAL CORRUPTION AND GOVERNMENT TRANSPARENCY

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

Public officials are subject to a 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 judicial investigation continued in the August 2008 case of the housing minister who resigned following controversy over using a foreign donation to pay fees to various government consultants and to purchase equipment. In March the minister of the environment resigned after allegations that he preferentially awarded government bids to a corporation that had connections with his family. The Office of the Public Ethics Prosecutor presented a report on this case with recommendations; the judicial investigation continued.

Previous investigations of two former presidents, Rafael Angel Calderon and Miguel Angel Rodriguez, resulted in indictments for separate and unrelated earlier cases of corruption. On October 5, a court sentenced Calderon to five years in prison on corruption charges and ordered him to pay restitution of the embezzled funds, but it did not prohibit him from holding office. A trial of the Rodriguez case remained pending at year's end.

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 citizens' access to public information.

Section 5 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 Ombudsman's Office has six regional offices and more than 150 staff to oversee government action or inaction that affects citizens' rights and interests. The ombudsman is accountable to the Legislative Assembly, which appoints him or her to a four-year term and funds office operations. The ombudsman participates in the drafting and approval of legislation, promotes good administration and transparency, and reports annually to the Legislative Assembly with nonbinding recommendations. The position carried a strong moral and symbolic weight in the country.

A special committee at the Legislative Assembly studies and reports on issues relating the violation of human rights and reviews bills relating to human rights and international humanitarian law; it also follows up on recommendations from the Ombudsman's Office.

Section 6 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 criminalizes rape and provides penalties from 10 to 18 years in prison for rape. The length of the sentence depends on the victim's age and other factors, such as the assailant's use of violence or position of influence over the victim. 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 the perpetrator. According to the judicial branch's statistics office, courts tried 356 cases for rape or attempted rape in 2008 and sentenced 158 defendants.

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, including a sentence of 20 to 35 years for men who kill their partners. If the offender has no violent criminal record and the sentence received is less than three years' imprisonment, the law also provides for alternative sanctions, such as weekend detentions, and assistance including referrals for social services. Protection from minor injuries continues under the criminal code.

INAMU reported that 35 women and girls died from domestic violence through the first 11 months of the year, compared with 38 such deaths in all of 2008. INAMU maintained a domestic abuse hotline connected to the 911 emergency system and provided counseling to 6,002 women as of October 31. According to the judicial branch's statistics office, in 2008 authorities opened 14,707 cases of domestic violence throughout the country, compared with 5,145 cases in 2007; in 2008 a total of 53 cases were tried and 18 persons were sentenced for crimes of violence against women.

The public prosecutor, police, and ombudsman have offices dedicated to domestic violence problems.

Prostitution is legal for persons age 18 and above 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 increases if the victim is younger than 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.

The law prohibits sexual harassment in the workplace and educational institutions, and the Ministry of Labor and Social Security generally enforced this prohibition. The law imposes penalties ranging from a letter of reprimand to dismissal, with more serious incidents subject to criminal prosecution. The Ombudsman's Office received 92 complaints of sexual harassment in the workplace during the year.

Individuals have the right to obtain information and access to safe methods of contraception from public hospitals and medical attention centers, as well as the right to receive medical care during pregnancy and childbirth. The public health care system plays a major role in how women may access contraception, including access to sterilization. In public as well as private health care, the right to obtain and use contraceptives extends to all members of the population. Approximately 94 percent of women had skilled attendance during childbirth in the public healthcare system.

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 Labor Ministry was responsible for investigating allegations of gender discrimination. INAMU implemented programs that promoted gender equality and publicized the rights of women.

In 2008 the Census Institute (INEC) reported that women represented 41.7 percent of the labor force. Approximately 4.2 percent worked in agriculture, 13.1 percent in manufacturing, and 82.7 percent in the service sector. Women occupied 43.5 percent of professional and technical positions and 30.4 percent of high-level managerial/executive positions. The law requires that women and men receive equal pay for equal work; however, a UN Development Program report estimated that earned income for women was approximately 53 percent of earned income for men, while INEC estimated that earnings for women were 85 percent those for men. These discrepancies reflected, in part, the fact that most women's jobs were in traditionally lower-paid sectors (domestic and clerical rather than professional or industrial).

CHILDREN

Citizenship is derived by birth within the country's territory or from either of one's parents.

Abuse of children remained a problem. For 2008 the judicial branch's statistics office reported 692 cases of sexual abuse of minors, with 337 perpetrators convicted. Additionally, 10 cases involved sex with minors, seven involved cases of sex with minors with payment involved, and seven involved the sexual corruption of minors. From January 1 to June 30, the autonomous National Institute for Children (PANI) assisted 2,145 children and adolescents, including 1,410 cases of physical abuse and 409 cases of intrafamily 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 six months of the year, PANI reported that it provided assistance to minors in 51 separate cases of commercial sexual exploitation. The law against commercial sexual exploitation includes sanctions for possession of child pornography, greater protection of children younger than 14 years, and an extended statute of limitations for child abuse. In addition PANI continued programs of comprehensive care for children and adolescents at risk and in vulnerable situations, combined with a program to help adolescent mothers return to school. The government identified child sexual tourism as a serious problem.

The National Commission to Combat Commercial Sexual Exploitation of Children and Adolescents (CONACOES), as well as nongovernmental organizations (NGOs), implemented a prevention and attention pilot plan in six communities. CONACOES also reported that 19 local information campaigns took place during the year. CONACOES, the Chamber of Tourism, and the Board of Tourism worked to commit travel agencies and tour operators to sign a code of ethics for the protection of children and adolescents against commercial sexual exploitation, as a requirement for a program of certification for sustainable tourism.

The minimum age of consensual sex is 18 years. The law provides for sanctions from two to 10 years in prison for statutory rape.

There were occasional problems encountered in the registration at birth of children born of migrant parents (see section 2.d.).

Trafficking in Persons

The law prohibits transnational human trafficking for purposes of prostitution or forced labor, including of minors, and criminalizes internal trafficking of children, adolescents, and adults. In February the Legislative Assembly passed a law that criminalizes all forms of trafficking in persons and closes a statutory gap relating to the internal trafficking of adults. In August the Legislative Assembly passed an immigration reform law, which establishes a separate migratory status for trafficking victims. There were reports that persons, particularly women and minors, were trafficked to, from, and within the country, most often for commercial sexual exploitation.

Victims were trafficked to the country from Nicaragua, the Dominican Republic, Colombia, Guatemala, China, Russia, and Ukraine. While evidence suggested that most trafficked persons remained in the country, according to a judicial source, there was evidence that Dominican and Colombian women were trafficked through the country en route to the United States, Guatemala, and Europe. Costa Rican women were trafficked to Mexico, Canada, and Japan. Women and children were trafficked within the country for sexual exploitation; men, women, and children also were 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.

The Victim and Witness Protection Law, which went into effect on April 22, establishes a penalty of six to 10 years in prison for the movement of persons for the purposes of prostitution, sexual or labor servitude, slavery, forced work or services, servile marriage, begging, or other prohibited purposes. Punishment can increase to eight to 16 years in prison under aggravating circumstances, such as cases involving minors (anyone under age 18) or the use of deception, violence, intimidation, or coercion. The criminal code provides sentences of between two and 10 years' imprisonment for anyone who engages in remunerated sex with a minor, between four and 10 years' imprisonment for managing or promoting child prostitution, and between two and 10 years' imprisonment for the sale of minors or trafficking in human organs.

At year's end there were seven active investigations of potential trafficking open in the OIJ Trafficking Unit. During the year the OIJ opened 11 investigations and forwarded two of them to the Prosecutor's Office, and two persons were arrested. In April authorities arrested one government official involved with a child-trafficking ring based in China, which was attempting to bring up to 300 Chinese children into the country.

While there were limited formal mechanisms specifically designed to aid trafficking victims, PANI provided temporary shelter services to minors that included integrated wellness and education programs. Through INAMU the government provided emergency medical care, shelter, and legal and psychological assistance to adult victims. The Victim's Assistance Office within the Prosecutor's Office reported providing assistance to victims of trafficking. The Witness Protection Law provides new protections to victims, including the creation of a witness protection program, and increased financial resources for the Victim's Assistance Office.

Government agencies responsible for combating trafficking and child sexual exploitation include the special prosecutor on domestic violence and sex crimes, the Victim's Attention Office, PANI, INAMU, the Foreign Ministry, the Labor and Social

Security Ministry, the Public Security Ministry, the Tourism Ministry, the General Directorate of Immigration, and the OIJ.

The government acknowledged the serious nature of the problem of trafficking in persons, especially the commercial sexual exploitation of minors. Awareness campaigns against child sex tourism continued, as did television and radio announcements and billboard notices designed to warn young women of the dangers of commercial sexual exploitation. The government had a national hotline for potential victims to receive information about trafficking and referred cases to PANI or INAMU. The antitrafficking media campaign, launched in October 2008 by the government's National Coalition against Trafficking and PANI in collaboration with the UN Children's Fund (UNICEF), continued during the year.

The government continued to effectively implement the 2008-10 National Plan of Action against Commercial Sexual Exploitation of Minors, which incorporates recommendations by the UN Committee on the Rights of the Child.

The National Coalition against Trafficking, headed by the minister of public security and composed of governmental institutions and NGO observers, developed a protocol for immediate victim assistance; provided antitrafficking training to immigration police, community police, labor inspectors, and OIJ agents; promoted prevention practices for educational institutions and associations of community development; and created an immediate response team for victim assistance composed of representatives from government institutions responsible for combating trafficking.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

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 such practices in education or in the provision of other state services. However, the Ombudsman's Office reported that, due to poor facility access and entrenched business practices, employment discrimination occurred.

Although a 1996 law mandates access to buildings for persons with disabilities and established a 10-year deadline to make necessary installations and upgrades, the government did not enforce this provision in practice, and many buildings remained inaccessible to persons with disabilities. The Supreme Court's Constitutional Chamber ruled in favor of the right of persons with disabilities to gain access to state-owned or private facilities open to the public. Public transportation services improved access slightly for persons using wheelchairs. During the year the Ombudsman's Office received and investigated 46 complaints about violations of the law that protects equal opportunities for persons with disabilities.

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 24 special education centers exclusively to assist special education students and those with disabilities, two more inside state hospitals, and an additional institute for the blind. In addition, 1,987 schools had programs to provide some support to students with disabilities, and the ministry provided special education to 14,815 students who registered in March.

The National Council on Disability is the body responsible for protecting the rights of persons with disabilities and for coordinating all organizations working on disabilities issues.

National/Racial/Ethnic Minorities

According to the 2000 census, the country's population included 72,784 blacks, who resided primarily in the province of Limon. During the year there were no reports to the Ombudsman's Office of racial discrimination against blacks. Approximately 6 percent of the resident black population was foreign born.

There were sporadic reports of discrimination, including labor discrimination, usually directed against Nicaraguans.

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

Indigenous People

The 2000 census recorded 63,876 indigenous persons from eight ethnic groups, accounting for 1.7 percent of the population. While indigenous persons were not subject to official discrimination, social and health network gaps diminished their quality of life. The indigenous population's complaints generally referred to their inability to fulfill basic needs such as housing, health, and education, which the Ombudsman's Office attributed to inadequate social development efforts. The National Commission on Indigenous Affairs is a semiautonomous institution responsible for promoting the development of indigenous populations, respecting their organizations, and protecting their cultural identity.

Seventy-three percent of the indigenous population lived in traditional communities on 24 reserves, most in remote locations, which 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 dwellings considered to be in good condition, mainly due to reluctance to move from 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, illegally sold their land to nonindigenous persons to pay off debts. The unit of the Ombudsman's Office dedicated to investigating violations of the rights of indigenous persons sought to return reserve land to indigenous groups. During the year the Ombudsman's Office received 12 complaints of discrimination against indigenous people, including problems related to documentation, community development, and the right to be consulted about national legislation that might affect indigenous life, territories, or culture.

At year's end, nonindigenous property owners continued to hold title to land on approximately 39 percent of the reserves legally set aside for indigenous ownership. The law requires that the government purchase all preexisting land titles within the reserves in order to secure exclusive use and ownership rights for indigenous populations.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There are no laws prohibiting discrimination against persons based on sexual orientation. There were isolated cases of discrimination against persons based on sexual orientation.

An NGO that focused on gay, lesbian, bisexual, and transgender (LGBT) rights and health issues complained that, due to the difficulty in proving labor discrimination based on sexual orientation, victims often failed to report such discrimination. The NGO received through a call center 2,332 inquiries or complaints from January to September 2008 when it lost funding from its sponsoring international institution for its call-center operations. The same NGO conducted an HIV/AIDS prevalence study from February to April, which determined that 10 percent of gay men in the country were infected with HIV/AIDS. This NGO also published a nondiscrimination manual with best practice guidelines for the educational system. Other LGBT organizations operated freely and lobbied for legal reforms recognizing same-sex unions.

During the year the Ombudsman's Office reported receiving three complaints of discrimination based on sexual orientation, all of which were resolved. On May 27, the Supreme Court's Constitutional Chamber upheld the constitutionality of the provision on common-law marriage and the definition of common-law partner of the family code, which limits the term to opposite-sex partners.

Other Societal Discrimination

The law and a presidential decree prohibit discrimination based on HIV/AIDS in health care, employment, and education. During the year the Ombudsman's Office reported receiving 30 complaints of discrimination against patients with HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

The law allows workers to form and join unions of their choice without prior authorization. Workers exercised this right in practice; however, restrictions on the minimum number of employees (12) needed to form a union may have hampered freedom of association in small enterprises. The law permits foreign workers to join unions but prohibits them from holding positions of authority within the unions. In August the Ministry of Labor and Social Security reported that approximately 9 percent of workers were unionized in 292 active unions, a decline from the percentage reported in 2008 attributable to the ministry's updating of its statistical records.

Due to complex filing procedures and the lack of oral hearing procedures, labor grievances continued to move extremely slowly in the courts. The International Labor Organization (ILO) and unions reported that antiunion activity cases took several years to reach judgment. For example, the FERTICA fertilizer workers' union case involving illegal terminations of union leaders and members has not been resolved after almost 10 years. In May 2008 the Inter-American Commission on Human Rights heard this case, including government commitments to resolve it, but there has been no visible progress. At year's end the case reportedly remained in the fact-finding phase to determine whether there were human rights violations.

Government mediation centers, designed to resolve conflicts without having to hire a lawyer and to alleviate overcrowded court dockets, addressed some labor disputes. During the first six months of the year, the Labor Ministry's Center for Alternative Resolution of Conflicts handled 1,408 cases, of which 72.6 percent resulted in an agreement between the

parties. During the first six months of the year, the Labor Ministry's Labor Affairs Directorate provided individual mediation assistance and handled 526 hearings, which resulted in 367 mediation agreements. A mediation center in the judicial branch to promote dispute resolution, which was approved by the Supreme Court in March 2008, was not functioning due to a lack of mediators. Trade unionists stated that workers were disadvantaged in mediation forums, because they did not have legal counsel and lacked power in relations with employers. Unions asserted that employer positions in these proceedings were essentially imposed on workers.

The law provides for the right to strike and workers exercised this right in practice; however, the law requires that at least 60 percent of the workers in an enterprise support strike action. This requirement was considered excessive by ILO standards.

Restrictions on the right to strike apply only to those services designated as essential services by the government, including those that concern the national economy or public health; however, the ILO noted that this also includes sectors, such as oil refineries and ports, that were not considered essential under international standards. Unions argued that the government's broad definition of "essential services" denied many workers the right to strike.

b. The Right to Organize and Bargain Collectively

The constitution protects the right of workers to organize and bargain collectively; however, there were barriers to exercising these rights in practice. The Labor Ministry reported in 2007 that 8.3 percent of the workforce was covered by collective bargaining agreements. Unions perceived a pattern of employers firing employees who wanted to unionize. The Ministry of Labor reported 16 complaints of antiunion discrimination during the year. Although public sector employees were permitted to bargain collectively, a 2006 decision of the Constitutional Chamber of the Supreme Court held that some fringe benefits received by certain public employees were disproportionate and unreasonable and repealed sections of collective bargaining agreements between public sector unions and government agencies.

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

Although private-sector unions have the legal right to engage in collective bargaining with employers, "direct bargaining arrangements" between employers and nonunionized workers occurred more commonly. In a 2008 study, the ILO concluded that such direct bargaining agreements disadvantaged workers because they did not result from balanced negotiations of two independent, adequately equipped parties. The Ministry of Labor reported 68 direct agreements during the year.

The law permits the formation of "solidarity associations," which often were organized by employers. The law prohibits such associations from representing workers in collective bargaining negotiations or in any other way that assumes the functions or inhibits the formation of trade unions; however, labor unions asserted that solidarity associations conducted negotiations and that in some cases employers required membership in a solidarity association as a condition for employment.

Trade union leaders contended that the existence of worker solidarity associations in many enterprises displaced unions and discouraged collective bargaining. Under solidarity associations both employers and employees directly contribute to the financing of the association. According to the ILO, such associations, to the extent that they displaced trade unions, discouraged collective bargaining, affected the independence of workers' organizations from employers' influence, and contravened ILO Convention 98 on the right to organize and bargain collectively. As of August solidarity associations had approximately 246,000 members, representing 12.5 percent of workers; 95 percent of these workers were in the private sector.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs). Labor unions alleged, however, that efforts of EPZ workers to organize were met by illegal terminations of activists, threats, and intimidation. Unions also claimed that employers in the zones maintained blacklists of workers identified as activists. Unions reported systematic violations of labor rights and provisions concerning working conditions, overtime, and wages in the EPZs. The ILO, confirming it found no trade unions operating in the country's EPZs, also identified the zones as a hostile environment for organizing.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor; however, there were reports that such practices occurred.

The National Coalition against Trafficking identified and studied two possible cases of trafficking in persons for the purpose of forced labor (in the service sector) during the year. The coalition identified these cases as labor exploitation and referred them to the Ministry of Labor. The coalition also organized a working group to provide training to labor inspectors from the Ministry of Labor.

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. The law prohibits night work and overtime for minors. Activities considered to be unhealthy or hazardous typically require a minimum age of 18. Working minors are entitled to attend educational establishments through flexible programs adapted to their interests and employment conditions and to participate in apprenticeship training programs.

According to the ILO, working minors ages 15 to 18 sometimes received less than the minimum wage, which was corroborated by the chief of the Labor Ministry's Office for the Eradication of Child Labor (OATIA).

The Labor Ministry, in cooperation with PANI, generally enforced these regulations effectively through inspections in the formal sector; the regulations were not enforced effectively in the informal labor sector as a result of inadequate resources. From January to June, PANI received 58 complaints of child labor exploitation.

Child labor was a problem mainly in the informal economy, including in agriculture, fishing, construction, and service sectors of the economy. Child labor also was used in production on family farms and small third-party farms, specifically in the production of oranges, sugarcane, and melons.

Child labor was also a problem among the indigenous population, including migrant populations. For example, children of the Ngobe-Bugle group migrated with their parents from Panama for seasonal work and participated in the harvest, even though the government offered schooling to children of migrants.

The Ministry of Labor is responsible for enforcing child labor laws and policies; the OATIA is responsible for coordinating government efforts targeted at child labor. Resource limitations constrained government efforts to enforce child labor laws. In coordination with public and private institutions, the OATIA provided technical assistance for vocational training programs to teenagers who previously worked in dangerous jobs in the Caribbean and northern regions of the country. The OATIA continued conducting four projects aimed at improving the life and work conditions of adolescent workers and eradicating child labor. The government, in conjunction with international donors, participated in regional initiatives to combat child labor. This included the ILO's International Program on the Elimination of Child Labor eight-year regional project to combat commercial sexual exploitation of children, which ended in April.

e. Acceptable Conditions of Work

The law provides for a minimum wage set by the National Wage Council and updated annually. Monthly minimum wages for the private sector ranged from 118,000 colones (\$203) for household workers to 434,000 colones (\$748) for university graduates. The Labor Ministry effectively enforced minimum wages in the San Jose area but generally was not effective in enforcing the wage law in rural areas, particularly where large numbers of migrants were employed. The national minimum wage, which also covers migrant workers, 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. Although there is no statutory prohibition against compulsory overtime, the labor code stipulates that the workday may not exceed 12 hours. Nonagricultural workers must receive an overtime premium of 50 percent of regular wages for work in excess of the daily shift. However, agricultural workers did not receive overtime pay if they worked voluntarily beyond their normal hours. Hourly work regulations were enforced generally in the formal labor market in San Jose, but poorly in rural areas and in the informal sector.

Labor unions reported that overtime pay violations, such as nonpayment, and mandatory overtime were common in the private sector and particularly in EPZ industries. Unions asserted that overtime was required to preserve employment, that there were violations of premium payment requirements for overtime work, and, in some cases, that workers did not receive payment for some of their required overtime work.

While the labor and health ministries 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 fine employers for violations. Most firms established such committees but did not use them effectively.

Although resource constraints continued to hinder the Labor Ministry Inspection Directorate's ability to carry out its inspection mandate, there were 7,915 inspections conducted in the first half of the year, compared with 8,651 inspections in all of 2008. Workers who consider a work condition to be unhealthy or unsafe must make a written request for protection from the labor or health ministries in order to remove themselves from the condition without jeopardizing their employment. The ministries generally effectively addressed these complaints by sending inspection teams to investigate them and coordinate with each other on follow-up actions.

