



U.S. DEPARTMENT OF STATE  
DIPLOMACY IN ACTION

## 2008 Human Rights Report: Costa Rica

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2008 Country Reports on Human Rights Practices](#)

February 25, 2009

Costa Rica, a constitutional democracy with a population of approximately 4.4 million, is governed by a president and the unicameral Legislative Assembly directly elected in free multiparty elections every four years. In 2006 Oscar Arias Sanchez of the National Liberation Party (PLN) won the presidency in elections that generally were 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 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 June 14, three officers from the security forces allegedly assisted in killing two persons. Authorities released one of the officers after two surviving victims could not identify him. The other two suspects remained under investigation for aggravated homicide. Authorities administratively suspended them from their jobs without pay for six months and held them in preventive detention that continued at year's end.

In September, based on a finding of excessive use of force, the Ministry of Public Security dismissed from duty the officer involved in the April 2007 death of a robbery suspect following a confrontation with security guards and then with police. The judicial investigation into the case and an administrative appeal continued at year's end.

The Criminal Tribunal of the Second Circuit declared innocent and released two former police officers who were arrested in 2006 for assisting in the 2005 revenge killings of three persons. An appeal was pending at year's end. The Ministry of Public Security dismissed the officers for unrelated reasons.

##### 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 August 6, a San Jose municipal police officer beat a woman during a raid on illegal street vendors. A municipal police administrative investigation resulted in a written warning to the officer that conditioned renewal of his contract on future behavior.

On June 11, the Ministry of Public Security exonerated two police officers who had been charged in June 2007 with abuse of authority and robbery because the man who raised the complaint against them failed to appear at the hearing.

In November 2007 the Third Chamber of the Supreme Court acquitted four police officers who had been found guilty by a lower court in 2005 of abuse of authority for beating a suspect who resisted arrest.

As of December the Ombudsman's Office received 31 complaints of police abuse (21 from prisons, seven from citizens, and three from migrants). Ten cases were closed by year's end, all from prisons. In the prison-related cases, the Ombudsman's Office recommended that prison authorities take action to protect and respect prisoner rights. The ombudsman conducts investigations as a preliminary step, with any recommendation for action forwarded to the respective agency for investigation or follow-up.

On September 11, a trial court acquitted two public security officers accused in the 2005 incident in which two guard dogs attacked a Nicaraguan; the security officers allegedly witnessed the incident but did not intervene.

#### 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.

By year's end, expansion at several prison facilities reduced the countrywide prison population to 2 percent below the system's total capacity. As of December 31, the San Sebastian, Pococi, San Carlos, Cartago, and Gerardo Rodriguez (San Rafael) prisons remained overcrowded, with the main problem among the population in pretrial detention. San Sebastian, where most prisoners in pretrial detention were held, housed 701 prisoners in an unsanitary facility with a capacity of 588. To alleviate these conditions, 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 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.

#### 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. 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. The government had mechanisms in place to investigate and punish abuse and corruption. However, court backlogs 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 and by lack of police professionalism.

Although 13 agencies have a security force, including the Judicial Investigative Police (OIJ) and the traffic police, the main "public force" is within the Ministry of Public Security. Citizens may report abuse of authority or police corruption through various accessible mechanisms. Officers are entitled to a disciplinary investigation, an oral hearing, and a board review in administrative cases. For criminal charges, cases go to the judicial branch.

In August the Ministry of Public Security announced that it had 1,500 open disciplinary cases against police officers for charges ranging from unauthorized absence to drug use and corruption. During the first seven months of the year, the ministry fired nine police officers for corruption.

#### 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 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. According to the Ministry of Justice, at year's end there were 2,099 persons in pretrial detention, representing approximately 15 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.

#### 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 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 all citizens.

#### 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 in civil matters where lawsuits, including human rights violations, are brought. Administrative and judicial remedies for alleged wrongs are available. On January 1, the Contentious Administrative Procedural Code, which provides for expedited court proceedings as well as oral procedures in civil cases between citizens and the government, entered into force.

#### 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. Property rights were irregularly enforced, and duplicate registrations occurred.

#### Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press. There were seven major privately owned newspapers and several periodicals, two privately owned television networks, and more than 100 privately owned radio stations, all of which pursued independent editorial policies. There was also a public radio and television system and a public university weekly newspaper.

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 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 December 2007 the Criminal High Court of Appeals upheld a lower court ruling that acquitted two journalists of

defamation in reporting about a police officer who was under investigation for extortion. However, the judges ruled that the police officer's reputation was harmed as a result of inaccurate reports and ordered the accused journalists to pay civil compensation to the officer.

On August 19, a court of appeals upheld the December 2007 conviction and sentence of two of the defendants in the 2001 killing of radio host Parmenio Medina. In December a tribunal decreased the sentence for a third defendant from 15 to eight years.

#### 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 33 Internet users per 100 inhabitants in 2007.

#### 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 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 a civil union only.

Immigration law contains procedures for missionaries and religious workers to seek temporary residency permits. A subsequent accord exempts Catholics. In June 2007 the government agreed with the Evangelical Alliance Federation to facilitate the temporary residency application process for non-Catholics. Non-Catholic leaders asserted, however, that substantial processing delays were common and some cases were never resolved.

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. The Evangelical Alliance Federation reported that the government continued to close some non-Catholic churches for noise and other code violations.

### Societal Abuses and Discrimination

There were a few minor reports of societal abuses or discrimination based on religious affiliation, belief, or practice, including two reported instances of anti-Semitic graffiti during the year. In one instance where authorities were notified, the government authorized immediate removal. There were an estimated 2,800 Jews in the country.

Although an executive order specifically allows non-Catholic clergy to enter government-controlled spaces (such as public hospitals and prisons) as Catholic clergy are permitted to do, non-Catholic leaders reported that some security guards denied entry to non-Catholic clergy, thereby preventing their ministering to followers.

For a more detailed discussion, see the 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

### 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 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 the expulsion or return of refugees to countries where their lives or freedom would be threatened. 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 providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

On August 25, the government signed an accord with the UNHCR to reestablish the Refugee Office (closed since 2005, scheduled to reopen in 2009) within the General Directorate of Immigration. The General Directorate is in charge of refugee status determination. The law requires claims to be adjudicated within three months of receipt. In practice, however, decisions took up to a year.

According to the UNHCR, there were approximately 11,800 recognized refugees in the country at year's end, the majority from Colombia, as well as 300 asylum seekers. The Migration Ministry reported 8,266 refugees at year's end. (The difference can be attributed to the fact that once refugees obtain permanent residency in the country, the ministry no longer counts them as refugees.) There were also 5,500 "persons of concern" in need of international protection.

The Migration Ministry reported that 387 of 940 asylum requests, or 41 percent, were approved during the year. This represented an increase over 2007 when the ministry approved 20 percent of the cases. Observers suggested the increased approval rate--which remained under half the requests--could be due to a changing profile of persons requesting asylum. Observers remained concerned about restrictive asylum procedures and inadequate training for adjudication staff.

The UNHCR worked to counter the incorrect perception of Colombian refugees as narcotics traffickers, criminals, and members of the Revolutionary Armed Forces of Colombia by placing opinion columns in the local press and meeting with appropriate government officials. A Colombian women's refugee group also launched a public awareness campaign.

#### 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 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 Costa Rican coffee plantations. 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 2007 the country held a national referendum on joining the U.S.-Central America-Dominican Republic Free Trade Agreement, which was considered to be generally free and fair. The Supreme Electoral Tribunal reviewed a few complaints of fraud and determined they were 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 government, police and public security, science and technology, health, culture, housing, and public works and transportation were women, although the first vice president resigned in October to run for president. There were 20 women in the 57-seat Legislative Assembly, including nine legislative committee chairwomen and the head of one 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 or the cabinet. There was one black member in the assembly but none in the cabinet.

#### Government Corruption and 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 government continued to pursue allegations of corruption against the executive branch. In August the housing minister resigned following controversy over using a foreign donation, designated to build housing for the poor, to pay fees to various government consultants and to purchase equipment. In September the Comptroller's Office filed a legal complaint with the Prosecutor's Office against the minister and others allegedly responsible for improperly administering the donation.

Previous investigations of two former presidents, Rafael Angel Calderon and Miguel Angel Rodriguez, resulted in indictments for separate and unrelated earlier cases of corruption. In the Calderon case, the trial began on November 3. In the Rodriguez case, a trial date was pending.

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. On September 5, the Constitutional Chamber of the Supreme Court required the government to give journalists information concerning negotiations for the purchase of Costa Rican bonds by China.

#### 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 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 assembly with nonbinding recommendations. 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 criminalizes rape and provides penalties from 10 to 18 years in prison for rape and two to 10 years in prison for statutory rape. The length of the sentence depends on a victim's age and other factors, such as an 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, 413 cases were tried during 2007, with 180 persons sentenced for rape or attempted rape.

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, such as referrals for social services. In October the Constitutional Chamber of the Supreme Court declared unconstitutional two articles of this law that punished physical and emotional violence against women, citing vagueness in their wording. Protection from minor injuries continues under the criminal code.

INAMU reported that 37 women and girls were killed in incidents of domestic violence during the year, compared with 16 victims in 2007 and 35 victims in 2006. INAMU maintained a domestic abuse hotline connected to the 911 emergency system and provided counseling to 6,263 women. According to the judicial branch's statistics office, in 2007 authorities opened 5,145 cases of domestic violence throughout the country.

The public prosecutor, police, and ombudsman had 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 is increased if the victim is less than 18 years old. 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 108 complaints of sexual harassment in the workplace during the year.

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 August the Constitutional Chamber of the Supreme Court ruled that pregnant women who are required to pay alimony must comply; however, pregnant women and women in the first 12 months after giving birth cannot be arrested for not complying with an alimony order.

In July the Census Institute reported that women represented 39.1 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. According to a 2007-08 UN Development Program (UNDP) report, women occupied 40 percent of professional and technical positions and 25 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 53 percent of earned income for men. This proportion reflected the fact that most

women's jobs were in traditionally lower-paid sectors (domestic and clerical rather than professional or industrial).

#### Children

The government was committed to children's rights and welfare through systems of public education and medical care.

Abuse of children remained a problem. For 2007 the judicial branch's statistics office reported 742 cases of sexual abuse of minors, with 335 perpetrators convicted. Of these, 29 cases involved sex with minors, six involved cases of sex with minors with payment involved, and five involved the sexual corruption of minors. From January 1 to June 30, the autonomous National Institute for Children (PANI) assisted 1,488 children and adolescents, including 951 cases of physical abuse and 537 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 six months of the year, PANI reported that it provided assistance to minors in 62 separate cases of commercial sexual exploitation. The law against commercial sexual exploitation includes sanctions for possession of child pornography, greater protection of children less than 14 years old, and an extended statute of limitations for child abuse. In addition PANI continued programs of integral 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.

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

#### Trafficking in Persons

Although the law prohibits transnational human trafficking for purposes of prostitution or forced labor, including of 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 were left to rely 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.

Victims were trafficked to the country from Nicaragua, the Dominican Republic, Colombia, and Guatemala. While evidence suggested that most trafficked persons apparently remained in the country, according to the International Organization for Migration (IOM), at least one individual transited to Mexico, and a historical pattern existed for victims to transit the country en route to the U.S., Canada, Europe, and occasionally other countries. 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 law explicitly criminalizes the transnational trafficking of persons for the purpose of prostitution or forced labor with a three- to six-year prison sentence, which can increase to four to ten years under aggravated circumstances. 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.

As of November there were six active investigations of potential trafficking opened in the OIJ Trafficking Unit. In 2007 the OIJ opened seven new investigations into trafficking in persons and 14 cases of alien smuggling, but there was no new information available about the status of those investigations. According to the judicial branch's statistics office, in 2007 nine trafficking cases were opened and tried, two persons were sentenced, and seven persons were acquitted. In the 2007 case of trafficked Chinese nationals, authorities released the traffickers from custody after one year of preventive detention due to a lack of movement in the case.

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. In one case the government acted quickly to intercept a victim en route to Nicaragua and provided her with assistance.

Government agencies responsible for combating trafficking and child sexual exploitation include the special prosecutor on domestic violence and sex crimes, PANI, the Foreign Ministry, the Labor and Social Security Ministry, the Public Security Ministry, the Tourism Ministry, the General Directorate of Immigration, and the OIJ, which in June established a trafficking unit with staff and office space.

The government acknowledged the serious nature of the problem of human trafficking, especially the sexual exploitation of minors. Campaigns against child sex tourism continued, as did television and radio spots 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 to INAMU. In March INAMU and the IOM launched an antitrafficking campaign geared toward adult women, which resulted in reporting of cases and government protection of victims. In October the government's National Coalition against Trafficking launched an antitrafficking media campaign with the UN Children's Fund (UNICEF).

The government's 2008-10 National Plan of Action against Commercial Sexual Exploitation of Minors, which incorporates some of the recommendations by the UN Committee on the Rights of the Child, remained in effect.

The National Coalition against Trafficking, headed by the vice minister of public security and composed of governmental institutions and NGO observers, developed a formal victim referral and assistance mechanism; provided antitrafficking training to police, border guards, consuls, and personnel from other institutions; and drafted language to reform the penal code to make internal trafficking a crime. With help from UNICEF, the police academy incorporated antitrafficking training into its curriculum.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/g/tip](http://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. Public transportation services improved access slightly for persons using wheelchairs. The Ministry of Public Transportation completed an accessibility manual during the year. As of September the Ombudsman's Office received and investigated 33 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 25 special education centers exclusively to assist special education students and students 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 14,236 students who registered in March.

#### National/Racial/Ethnic Minorities

According to the 2000 census, the country's population included 72,784 blacks, who mostly resided in the province of Limon and who enjoyed full rights of citizenship, including the protection of laws against racial discrimination. During the year there were two 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, 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 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 1.68 percent of the population. While indigenous persons were not subject to official discrimination, social and health network gaps diminished their quality of life. The Ombudsman's Office attributed this to a lack of social development policies.

Seventy-three 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 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 Ombudsman's Office unit dedicated to investigating violations of the rights of indigenous persons sought to return reserve land to indigenous groups. As of December the Ombudsman's Office received 13 complaints of discrimination against indigenous rights, 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 40 percent of the reserves legally set aside for indigenous occupation. 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.

#### Other Societal Abuses and Discrimination

There are no laws prohibiting discrimination against persons based on sexual orientation. As of December the Ombudsman's Office reported receiving one complaint of discrimination based on sexual orientation; the Ombudsman's Office ruled in favor of the institution involved. At year's end a law recognizing same-sex marriage was under discussion in the legislature.

Discrimination based on HIV/AIDS is prohibited by law and by presidential decree in health care, employment, and education. The Ombudsman's Office received one complaint of a breach of patient confidentiality during the year; the claim was dismissed because it could not be substantiated.

## 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 or to leave a union and prohibits infringement of that right. In July 2007 the Ministry of Labor and Social Security reported that approximately 16 percent of workers were unionized in 862 active and inactive unions, 244 of which the International Labor Organization (ILO) labeled as active.

Due to complex filing procedures and the lack of oral hearing procedures, labor grievances continued to move extremely slowly in the courts. The 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 in almost 10 years. In May the Inter-American Commission on Human Rights heard this case, including government commitments to resolve it, but there has been no visible progress.

Government conciliation centers, designed to resolve conflicts without having to hire a lawyer and to remove some cases from overcrowded court dockets, covered some areas including labor disputes. The Labor Ministry's Center for Alternative Resolution of Conflicts handled 1,144 cases during the first six months of the year, 45.7 percent of which resulted in an agreement between the parties. During 2007 the Labor Ministry's Labor Affairs Directorate provided individual conciliation assistance and handled 1,460 hearings, which resulted in 588 mediation agreements. On March 12, the Supreme Court approved the creation of a conciliation center in the judicial branch to promote dispute resolution. Trade unionists reported, however, that workers were disadvantaged in conciliation forums, because they did not have legal counsel and lacked power vis-a-vis employers. Unions asserted that in these proceedings, employer positions essentially were imposed on workers.

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; this requirement is considered excessive by ILO standards according to the International Trade Union Confederation's annual report released during the year. Restrictions on the right to strike apply only to essential services that concern the national economy or public health. Unions argued, however, that the government's broad definition of "essential services" denied many workers the right to strike.

### b. The Right to Organize and Bargain Collectively

Workers exercised the constitutional right to organize and the right to voluntary collective bargaining. However, unions were concerned by a perceived pattern of firing employees who wanted to unionize. Foreign nationals are expressly prohibited from exercising direction or authority in unions.

Trade union leaders contended that the existence of worker "solidarity associations" in many enterprises displaced

unions and discouraged collective bargaining. The law prohibits these non-dues-collecting associations, which often were organized by employers, from representing workers in collective bargaining negotiations or in any other way that assumes the functions or inhibits the formation of trade unions. As of September solidarity associations had approximately 352,000 members, the majority in the private sector. The Labor Ministry reported in August 2007 that 8.3 percent of the workforce was covered by collective bargaining agreements.

The ILO stated that solidarity associations in the country were unique and presented an ongoing area of concern for its Committee of Experts. According to the ILO, such associations, to the extent that they displace trade unions and discourage collective bargaining, contravened the ILO convention that establishes the total independence of workers' organizations from employers in exercising their union activities. The ILO noted that these associations were dependent on a financial contribution from the relevant employer and were financed by both workers and employers.

Labor unions accused solidarity associations of receiving direct financial assistance from employers, of permitting employers to be involved in internal association processes, and of conducting negotiations, and accused employers of requiring membership in a solidarity association as a condition for employment in a number of enterprises in the country.

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 unorganized workers occurred more commonly. During the year, at the request of the Committee of Experts, the ILO studied the apparent disproportion between the numbers of direct bargaining arrangements ("arreglos directos") and of collective agreements in the private sector and concluded that the former did not result from balanced negotiations of two independent, adequately equipped parties. According to the ILO, the direct arrangements could not be qualified as bargaining and therefore contradicted Convention No. 98.

A 2008 Observation by the ILO Committee of Experts found the 2006 action by the Constitutional Chamber of the Supreme Court, repealing sections of collective bargaining agreements between public sector unions and government agencies, to have contravened Convention No. 98. The court had stated that some fringe benefits received by certain public employees were disproportionate and unreasonable.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs). Labor unions alleged, however, that virtually every effort of EPZ workers to organize was met by illegal terminations of activists, threats, intimidation, and ultimately severances of workers under conditions of desperation and duress. Unions also claimed that employers in the zones maintained blacklists of workers identified as activists. Unions reported systemic 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, identified them as a hostile environment for organizing.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no confirmed reports that such practices occurred.

#### 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. 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 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 resource allocations by the government.

Child labor was a problem mainly in the informal agricultural, fishing, construction, and service sectors of the economy, including among the indigenous population. For example, 80 percent of the Ngobe-Bugle group migrated from Panama for seasonal work; since all members of families traveled together, some of their children worked with the rest of the family, even though the government offered schooling to children of migrants. Child labor also was used in domestic work and family-run enterprises. Child prostitution and other types of child sexual exploitation remained serious problems.

The OATIA, responsible for coordinating government efforts targeted at child labor, developed vocational training programs for teenagers who previously worked in dangerous jobs in the Caribbean and northern regions of the country. The OATIA continued conducting seven projects in coordination with public and private institutions. These projects were geared toward improving life and work conditions of indigenous and migrant groups, eradicating child labor, and protecting at-risk children and adolescents. The ILO's International Program on the Elimination of Child Labor continued operating as part of a seven-year regional effort to combat commercial sexual exploitation of children.

#### 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 107,883 colones (\$192) for domestic employees to 397,665 colones (\$709) for university graduates. The Labor Ministry effectively enforced minimum wages in the San Jose area but generally was not 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. Nonagricultural workers 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 overtime pay violations and mandatory overtime as common in the private sector and particularly in EPZ industries. Unions alleged that overtime was required to preserve employment and that mandatory overtime was a form of forced labor, especially when combined with violations of premium payment requirements for overtime work. Unions claimed that in some cases workers received no 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 3,006 inspections conducted in the first half of the year compared with 4,528 inspections in all of 2007. 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.

Although labor unions acknowledged that the relevant ministries required additional resources and capacity to enforce labor rights and laws, they attributed noncompliance with labor standards, failures to inspect, and nonenforcement of laws more to a lack of political will and to the involvement of employers directly in solidarity associations and less to a shortage of resources or capacity.