

COSTA RICA

Costa Rica is a constitutional democracy with a population of approximately 4.5 million and governed by a president and a unicameral Legislative Assembly that are directly elected in multiparty elections every four years. On February 7, Laura Chinchilla Miranda of the National Liberation Party (PLN) was elected the country's first female president in elections that were generally considered free and fair. Security forces reported to civilian authorities.

The following human rights problems were reported: substantial judicial process delays (particularly in pretrial detention and civil, criminal, and labor cases), 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

There were no reports that the government or its agents committed arbitrary or unlawful killings.

On May 27, a trial court sentenced two uniformed police officers to 72 years in prison for the 2008 killing of two persons.

There were no developments in the 2007 case of a police officer involved in the killing of a robbery suspect.

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 coercion is invalid, and the government

investigated, prosecuted, and punished agents responsible for confirmed cases of abuse.

During the year the Ombudsman's Office recorded 27 complaints of police abuse; as of December 31, two complaints had been resolved and 25 remained under investigation. The ombudsman conducted 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 a problem 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.

Prison overcrowding continued to increase. On December 15, the Justice Ministry's Social Adaptation Division reported a total population of 20,564 under its supervision (including 10,586 prisoners in closed regime centers, 1,049 persons required to spend nights and weekends in jail, 8,452 in supervised work programs requiring no jail time, and 477 juveniles) and indicated that on average prison populations exceeded designed capacity by 22 percent. The Social Adaptation Division also reported that there were 629 prisoners at the San Jose women's prison and 27 women prisoners at the Liberia prison as of December.

The San Sebastian, San Carlos, Cartago, Liberia, Perez Zeledon, Puntarenas, Limon, La Reforma, Gerardo Rodriguez, Buen Pastor, and Pococi prisons remained overcrowded at year's end, with the population in pretrial detention experiencing the most overcrowding. In San Sebastian, where most prisoners in pretrial detention were held, 983 prisoners lived in unsanitary conditions in a facility with a capacity of 632. To mitigate these conditions, some pretrial detainees were held together with convicted prisoners in long-term detention facilities throughout the country.

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

In June the Ombudsman's Office reported that some prisons had inadequate space available for resting: prisoners had to sleep on deteriorated mattresses on the floors, underneath the beds of other prisoners, or even in hallways and bathrooms. Overcrowding also raised questions of health risks, since many prisoners claimed that they had to wait months for medical attention. There were long lines for bathrooms, water, telephones, and recreation within prisons, and the Ombudsman's Office reported that security and administrative staffing was insufficient to care for the increasing prison population. There was an average of three corrections officers to oversee 100 inmates.

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

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. In the event such complaints were not processed, prisoners could submit them to the Ombudsman's Office. The Ombudsman's Office, through the National Prevention Mechanism against Torture, periodically inspected all detention centers.

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 March new prison units with a capacity for 23 additional inmates went into service at the San Carlos and the Older Adult prisons. In December the Ministry of Justice reported that it began the contracting process for the construction of additional units to increase capacity for 640 inmates at the Liberia, San Carlos, Perez Zeledon, Limon, San Rafael, and Puntarenas prisons.

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. Civilian authorities maintained effective control over the 13 agencies that have law enforcement components, including the judicial branch's Judicial Investigative Organization. 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 operated the traffic police, and the Ministry of Justice operated the penitentiary police.

There were no reports of impunity involving the security forces.

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 post bail and prompt access to an attorney and to family members; authorities generally observed these rights in practice. Indigent persons are provided a public attorney at government expense. Even those with sufficient personal funds are able to use the services of a public defender. With judicial authorization, authorities may hold suspects incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days if preventive detention is previously ordered and there are reasons to believe that suspects may reach an agreement with accomplices or may obstruct the investigation in any other way. Suspects are allowed access to attorneys immediately before submitting declarations. Authorities promptly inform the suspects of any offenses under investigation.

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 court review every three months of cases of suspects in pretrial detention to determine the appropriateness of continued detention. Under the 2009 organized crime law, if a judge declares a case is related to organized crime, special procedural rules apply that extend the maximum period of preventive detention from 12 months to 24 months; the statute of limitations is 10 years from the date of the last crime. According to the Ministry of Justice, as of December 15, there were 2,733 persons in pretrial detention, constituting approximately 26 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 2009 approximately 230,000 criminal complaints were filed with the judicial branch, 7,000 of which went to trial, with a conviction rate of 56 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 the portion of the trial where the minor is called to testify. Defendants have the right to be present during the trial and consult with an attorney in a timely manner. Victims can request special arrangements in the courtroom to avoid unwanted contact with defendants. Accused persons can select attorneys to represent them, and the law provides for access to counsel at state expense for indigent persons. The law provides for detainee and attorney access to government held evidence, and during the trial defendants can question witnesses and present witnesses on their own 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 expedite prosecution of criminal cases when the suspect was arrested while committing a crime. On April 15, the judicial branch opened a fast track court in Limon. Fast track courts provide the same protections and rights as other courts.

Regional Human Rights Court Decisions

In 2009 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, clarifying its 2004 ruling that required the government to reform its appeals system. On May 31, the government submitted a new compliance report stating that it had established criminal courts of appeal. On November 22, the

Inter-American Court of Human Rights reported that the country complied with 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. In some cases, property rights were irregularly enforced and duplicate registrations occurred.

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

The constitution prohibits such practices, and the government generally respected these prohibitions in practice. Judges may approve the use of wiretaps during the investigation of certain crimes, but restrictive legal guidelines made the use of wiretaps infrequent. The 2009 law against organized crime reformed electronic surveillance procedures by mandating the creation of a communications investigation center under the judicial branch to run all wiretapping. The center was not operational 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 provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. In February the Supreme Court's High Court of Criminal Appeals overturned a 50-day prison sentence against a journalist accused of libel in 2004. The court decision invalidated an article of the press law that made offenses against honor punishable with prison.

Internet Freedom

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

In July the Supreme Court ruled that Internet access is a fundamental right. A study published during the year by a subsidiary of the Electricity Institute reported that nearly 30 percent of households had Internet access, and the International Telecommunication Union reported that there were 34 Internet users per 100 inhabitants in 2009. More than a million citizens had access to Internet from their households, with an average of three hours of access a day and three persons in the household using the service. Other locations where citizens had access to Internet were educational institutions, workplaces, Internet cafes, and Wi-Fi hotspots.

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, 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

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at 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 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 the government did not use it in practice.

Protection of Refugees

The laws provide for the granting of asylum or refugee status 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 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 adjudication of claims within three months of receipt; however, in practice, decisions took from six to eight months. According to reports from the directorate's refugee department, from July to October, 120 cases were denied review by the commission and were in an appeal process at the end of the year. Applicants cannot work legally until the directorate approves their cases. Applicants have access to education.

The General Directorate of Immigration reported 8,678 refugees as of August, compared with 12,298 recognized refugees reported by the UNHCR at the end of 2009, most of whom were from Colombia. The decrease was largely attributable to the fact that, once refugees obtained permanent residency in the country, the General Directorate no longer counted them as refugees. There were 168 extraregional asylum seekers during the year, according to official data of the Immigration Directorate. According to the UNHCR, there were 231 such cases and a total of 920 asylum requests during the year. Many asylum-seekers did not appear at the Immigration Directorate to carry on with their status application process. The government and the UNHCR reported that most of these individuals simply used the asylum request as a means of obtaining a document that enabled them to cross the country on their journey toward the United States. Due to the low recognition rates, the UNHCR had to consider an increasing number of rejected asylum seekers as "persons of concern" in need of international protection. The UNHCR estimated that annually there were some 400 to 500 persons of concern, whose cases it checked to determine whether they needed international protection.

An immigration law that took effect in March creates a separate office within the General Directorate of Immigration to deal specifically with refugee problems. The law also creates a commission, which is responsible for the granting of refugee status, and an immigration review tribunal for the appeals process. The commission began its work in July, but the tribunal had not been constituted as of year's end.

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. As of September, immigration authorities reported that the Ministry of Foreign Affairs granted four persons the immigration category of stateless person and the Immigration Office provided them with documents. The government detected and assisted these immigrants under UN parameters.

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 free and fair elections based on universal suffrage conducted by secret ballot every four years. The independent Supreme Electoral Tribunal ensured the integrity of the elections, and the authorities and citizens respected the election results.

Elections and Political Participation

In national elections held on February 7, Laura Chinchilla Miranda of the PLN won the presidency and became the country's first female president in elections that generally were considered free and fair. The Organization of American States team that monitored the election praised the peaceful and normal way in which the process unfolded.

Political parties operated without restriction or outside interference. The constitution and the electoral code establish the right of all citizens to organize themselves in parties to participate in national politics. The internal structure and operation of parties should be democratic according to the law.

The Supreme Electoral Tribunal (TSE) requires that a minimum of 50 percent of candidates for elective office be female and that women's names be placed alternately with men on the ballots by party slate. In August the TSE reported that 49 percent of the candidates running for office in the December local government election were women. There were nine women in the cabinet. There were 22 women in the 57-seat Legislative Assembly, including the vice president of the assembly, the government party leader, and nine legislative committee chairwomen, representing 38.6 percent of seats. The deputy chief justice of the Supreme Court, the presidents of the High Court of Civil Appeals and the Constitutional Chamber were women.

Indigenous persons did not play significant roles in politics or government except on problems directly affecting their welfare, largely because of their relatively small numbers and physical isolation by their own preference. There were no indigenous or black members in the Legislative Assembly or the cabinet. There was one black head of a government agency.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption and the government generally implemented these laws; however, there were isolated cases of officials engaged in corrupt practices with impunity. The government took the following actions to combat corruption. In June the Office of the Comptroller General, the Office of the Solicitor General, the Chief Prosecutor's Office, and the Institute against Drugs signed a letter of intent to establish an alliance to fight corruption. The Office of Public Ethics developed a national plan of action to comply with recommendations from the Committee of Experts of the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption. The Office of Public Ethics initiated a strategy to promote the right of access to public information. The passage of the 2009 Law on the Protection of Victims, Witnesses, and other Persons Involved in Criminal Proceedings improved protection of public servants and private citizens who in good faith report acts of corruption.

Public officials were subject to financial disclosure laws. 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.

Judicial investigations continued in the 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. The government also continued to investigate a 2009 case of the former minister of the environment on allegations that he preferentially awarded government bids to a corporation that had connections with his family.

In June the Supreme Court's Constitutional Chamber ruled partially in favor of a former legislator accused of using a government airplane to attend a campaign event. The TSE had sought to remove her from her position because the law stipulates that political parties cannot use public resources for campaigns. The court found that the constitution does not give the TSE authority to remove legislators for unethical actions and instructed the TSE to formulate a reform to the constitution and regulations. The trial of former president Miguel Angel Rodriguez, which began in April 2009, remained pending at year's end. In August the judges imposed precautionary measures against Rodriguez for obstructing the

process by trying to prevent a witness from testifying.

The law provides for public access to government information, and the government generally respected this right to access for citizens and noncitizens, including foreign media. 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 number of domestic and international human rights groups operated without government restriction. Government officials were cooperative and responsive to their views.

The Ombudsman's Office has six regional offices and more than 150 employees to review 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 carries strong moral and symbolic weight.

A special committee at the Legislative Assembly studies and reports on problems relating to the violation of human rights and reviews bills relating to human rights and international humanitarian law. The committee 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 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 because either the victim or the victim's family were reluctant to press charges against the perpetrator. According to the judicial branch's statistics office, courts tried 373 cases of rape or attempted rape in 2009 and sentenced 184 defendants. According to official statistics, the number of cases of sexual violence increased during the year. A domestic NGO assisted 83 victims during the year, but only 10 percent of those submitted police reports.

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 a domestic violence 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 and rehabilitation.

INAMU assists women and their children who are victims of domestic violence in its regional office located in San Jose as well as in three other specialized centers and temporary shelters in remote areas. INAMU reported that, during the year, 39 women and girls died from domestic violence, the same as reported in 2009. INAMU maintained a domestic abuse hotline connected to the 911 emergency system and provided counseling to 4,578 women as of September. According to the judicial branch's statistics office, in 2009 authorities opened 10,510 cases of domestic violence throughout the country, compared with 14,706 cases in 2008. In 2009, there were 245 cases tried and 119 persons sentenced for crimes of violence against women.

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

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 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 210 complaints of sexual harassment in the workplace during the year, the vast majority of which came from employees of the uniformed police force (part of the Ministry of Public Security). On June 2, an amendment to the law entered into force that establishes a procedure for sanctioning sexual harassment offenses committed by public officials elected by popular vote.

Individuals have the right to obtain information and access safe methods of contraception from public hospitals and medical attention centers, as well as the right to receive medical care during pregnancy and childbirth. Women have equal access to diagnosis and treatment for sexually transmitted infections, including HIV. Women generally did not experience barriers to reproductive health services. 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. The Population Reference Bureau reported that the rate of contraceptive use among married women was 80 percent. Approximately 94 percent of women had skilled attendance during childbirth in the public healthcare system. The UN Population Fund estimated the maternal mortality ratio in 2008 to be 30 deaths per 100,000 live births.

The law prohibits discrimination against women and obligates the government to promote political, economic, social, and cultural equality. The government maintained offices for gender problems in most ministries and parastatal organizations. The Labor Ministry is responsible for investigating allegations of gender discrimination. INAMU implemented programs that promoted gender equality and publicized the rights of women. During the year INAMU implemented a training program for men and the uniformed police that discussed male attitudes towards women. INAMU provided training that addressed gender-based violence, trafficking in persons, and commercial sexual exploitation during the year. INAMU also supervised basic courses on HIV prevention and attention. In addition INAMU developed a system of accreditation for offender assistance programs as stipulated by the violence against women law.

In 2009 the Census Institute (INEC) reported that women represented 42.1 percent

of the labor force. Approximately 3.5 percent worked in agriculture, 11.5 percent in manufacturing, and 85 percent in the service sector. Women occupied 47.4 percent of professional and technical positions, 18.8 percent of high-level managerial/executive positions, and 33.9 percent of nonprofessional positions. The law requires that women and men receive equal pay for equal work. However, INEC estimated that earnings for women were 91.6 percent of earned income for men.

Children

Citizenship is derived by birth within the country's territory or from either of one's parents. According to the UN Children's Fund, skilled medical staff attended 99 percent of births in hospitals, where all births are registered immediately. There were occasional problems encountered in the registration at birth of children born of migrant parents (see section 2.d.).

Abuse of children remained a problem. For 2009 the judicial branch's statistics office reported 691 cases of sexual abuse of minors and 16 cases of attempted abuse, with 355 and nine perpetrators convicted, respectively. In addition, 33 cases involved sex with minors, 16 involved cases of sex with minors with payment involved, and four involved the sexual corruption of minors. During the year the autonomous National Institute for Children (PANI) assisted 2,533 children and adolescents, including 3,330 cases of physical abuse, 769 cases of intrafamily sexual abuse, and 537 cases of extrafamilial 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 year, PANI reported that it assisted minors in 104 separate cases of commercial sexual exploitation. The law against commercial sexual exploitation includes sanctions for possession of child pornography, greater protection for 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 also identified child sexual tourism as a serious

problem. The law criminalizes the commercial sexual exploitation of children and provides sanctions of up to 18 years in prison. During 2009 and the first six months of the current year, PANI reported assisting 34 minor victims of trafficking in persons and smuggling; of the 34 cases, 29 took place in San Jose and the Central Pacific coast of the country. During 2009 there were 103 cases of commercial sexual exploitation of minors in the Central Pacific coast, the Brunca, and the Atlantic regions where there were greater incidences of poverty, unemployment, school desertion, and drug addiction.

The minimum age of consensual sex is 18 years. The law provides for sentences from two to 10 years in prison for statutory rape and sentences from three to eight years in prison for child pornography. Sentences are lengthier in aggravated circumstances: for example, rape involving physical violence or a victim under age 13 is punishable by 10 to 16 years' imprisonment.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

There were some reports of anti-Semitic verbal abuse in public and occasional instances of anti-Semitic graffiti at public universities. The alleged victims did not press charges. Jewish Zionist Center estimated that there were 3,000 Jews in the country.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, health care access, or other state services. There were no reports of such discriminatory practices in education or in the provision of other state services. However, the Ombudsman's Office reported that, although there were some institutional efforts to improve the

situation, there were isolated instances where a lack of interagency coordination prevented the implementation of comprehensive strategies to protect the fundamental rights of persons with disabilities. The Ombudsman's Office reported problems in access to employment for persons with disabilities.

Although the law mandates access to buildings for persons with disabilities, the government did not enforce this provision in practice, and many buildings remained inaccessible to persons with disabilities. In 2009 the Supreme Court's Constitutional Chamber upheld an appeal 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 29 complaints about violations of the law that protects equal opportunities for persons with disabilities.

The TSE, with the assistance of the National Council on Disability (CNREE), implemented a program to facilitate the right of persons with disabilities to vote and participate in electoral activities. The TSE provided voting equipment (a Braille template) which enabled blind voters to vote independently and privately.

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, 2,129 schools had programs to provide some support to students with disabilities, and the ministry provided special education to 14,815 students who registered in 2009.

The CNREE is responsible for protecting the rights of persons with disabilities and for coordinating all organizations working on issues related to persons with disabilities.

A political party, Accessibility without Exclusion, represented the interests of persons with disabilities and held four seats in the Legislative Assembly. In addition, a member of this party was elected mayor of the city of Liberia.

National/Racial/Ethnic Minorities

There were sporadic reports of discrimination, including labor discrimination,

usually directed against Nicaraguans. At a November 12 information fair funded by a foreign government, approximately 1,000 migrants, mainly Nicaraguans, received information about their labor, economic, and human rights.

Indigenous People

The 2000 census recorded 63,876 indigenous persons from eight ethnic groups, accounting for 1.7 percent of the population. Seventy-three percent of the indigenous population lived in traditional communities on 24 reserves, most in remote locations. 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 sought to return reserve land to indigenous groups. During the year the Ombudsman's Office received six complaints of discrimination against indigenous persons, including problems related to documentation, community development, and the right to be consulted about national legislation that might affect indigenous life, territories, or culture.

The Ombudsman's Office reported that the government excluded indigenous persons from decision-making processes regarding education, infrastructure, housing, and public services. The indigenous communities of Terraba, Curre, and Boruca were concerned about the sociocultural and environmental impact in their reserves of the development of the Diquis hydroelectric dam project. The Ombudsman's Office opened an investigation on this case, which continued at year's end.

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, and there were isolated cases of discrimination against persons based on sexual orientation.

Organizations for lesbian, gay, bisexual, and transgender persons operated freely

and lobbied for legal reforms. On June 27, a gay pride march occurred in San Jose; police authorized the march and provided protection to marchers.

The Ombudsman's Office resolved one of four complaints of discrimination based on sexual orientation that it received during the year. In August the Supreme Court's Constitutional Chamber rejected a proposed referendum vote on civil unions between individuals of the same sex. The ruling annulled a TSE resolution that authorized the collection of signatures for a referendum vote to be held during the December municipal elections. The justices ruled that such a referendum would put the minority gay and lesbian population at a disadvantage, requiring government authorities to protect their rights. The court stated that the decision on homosexual civil union is a legislative, not an electoral issue.

In June the TSE issued new rules for national identification cards to respect sexual identity on photographs. The new rules must be applied in the TSE regional offices and consulates abroad.

Other Societal Violence or 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 one complaint of discrimination against patients with HIV/AIDS. In February the Constitutional Chamber of the Supreme Court ruled that the HIV test must not be a requirement for employment.

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 July the Ministry of Labor and Social Security reported that approximately 11.5 percent of workers were unionized in 295 active unions.

The law allows unions to conduct their activities without government interference. However, leadership of SINTRAJAP, the union for the country's largest ports, alleged that government officials colluded with a dissident group within the union

to remove them from office because the union board opposed the concession of the ports of Limon and Moin. Through a series of questionable actions, the board members were removed in January and replaced with a new board that supported the concession of the ports. On August 25, the Supreme Court's Constitutional Chamber found that there had been a violation of due process, annulled the decision to remove the prior board, and ordered the Ministry of Labor to reinstate the ousted leadership. In September the Legislative Assembly formed a special committee to investigate and analyze all current and future concession processes and to provide recommendations to improve the concession model. As of December, the committee was exclusively devoted to investigating the concession of the highway to the Pacific coast.

The law provides for the right to strike and workers exercised this right in practice, but at least 60 percent of the workers in an enterprise must support the strike. ILO considered this requirement excessive.

Restrictions on the right to strike apply to those services designated as essential services by the government, including those that concern the national economy or public health. The ILO noted that this also includes sectors such as oil refineries and ports that are 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 did not have data available to determine the percentage of the workforce covered by collective bargaining agreements. As of October, the Labor Ministry reported the signing of 13 collective bargaining agreements, nine of them in the public sector and four in the private sector.

Although public sector employees are 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; it repealed sections of collective bargaining agreements between public sector unions and government agencies, thus restricting this right in practice.

According to the Labor Ministry, there were further developments in agreements

signed in 2009 and substantive changes regarding the right of public sector employees to bargain collectively. The ministry reported that the Labor Chamber of the Supreme Court concluded that collective agreements negotiated by employers and public employees, whose labor relations are regulated by labor law, are constitutional. However, there are restrictions in certain cases; for example, agreements in the public sector are legal so long as they do not regulate the working conditions of workers engaged in the administration of public affairs (in executive positions). The Constitutional Chamber of the Supreme Court also rejected some unconstitutionality petitions against collective bargaining agreements in the public sector. Such labor and constitutional rulings could reduce the number of future petitions against approved clauses in collective bargaining.

The law requires employers to initiate the bargaining process with a trade union if more than one-third of the total workforce, including union and nonunion members, requests collective bargaining. The government enforced this law in practice. In the private sector, however, "direct bargaining arrangements" between employers and nonunionized workers occurred more commonly. Such direct agreements were permitted in both unionized and nonunionized businesses. 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 33 new direct agreements in the private sector as of October.

The law permits the formation of "solidarity associations," which provide access to credit for housing, education, and health, funded by contributions from both workers and employers. These associations were often 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 in practice solidarity associations conducted negotiations and that employers sometimes 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 July, 1,423 solidarity associations had approximately 255,492 members, representing 15 percent of the country's workers; 84 percent of these workers were

in the private sector.

Although the law prohibits antiunion discrimination and employer interference in union activity, there continued to be a pattern of employers firing employees who wanted to unionize. There were reports that some employers preferred to use “flexible,” or short-term contracts, making it difficult for workers to organize and collectively bargain. There were also reports that migrant workers in agriculture were often hired on short-term contracts through intermediaries. These workers faced antiunion discrimination, challenges in organizing, and were often more vulnerable to labor exploitation.

Although the government reviewed cases of antiunion discrimination, the ILO continued to note that such cases often took an extremely long time to obtain a final ruling in the court, often due to numerous appeals. Similarly, the International Trade Union Confederation noted that the reinstatement process for workers that have been unfairly dismissed averaged three years. There was some progress in increasing the overall efficiency of judicial proceedings, but it was unclear what direct impact this has had on labor cases. Government mediation centers also continued to help alleviate caseload and address some labor disputes. The Labor Ministry reported 7,620 requests for conciliation during the year, 3,824 of which led to hearings; of these, 2,638 ended with agreements. However, trade unionists continued to assert that employer positions in these proceedings were often imposed on workers. The Ministry of Labor received 10 complaints of antiunion discrimination. As of November, six cases were pending, and the remaining four were closed.

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. The ILO confirmed it found no trade unions operating in the country's EPZs but 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 fishing sector) during the year. One case involved 10 victims and the other involved 41 victims, all from Asian countries. The coalition referred them to the judicial authorities for investigation. Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

d. Prohibition of Child Labor and Minimum Age for Employment

The law provides special occupational protection for minors. The code of children and young persons prohibits labor of all children under age 15 without any exceptions; it supersedes the minimum working age of 12 established in the labor code. 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. The law prohibits those under age 18 from engaging in hazardous or unhealthy activities. On December 20, the Legislative Assembly approved the list of activities considered hazardous, although its publication in the official gazette was pending at year's end. Under the code of children, 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 and the Labor Ministry, working minors between the ages of 15 and 18 sometimes received less than the minimum wage.

Child labor, including the worst forms of child labor, occurred in several sectors of the economy, including in agriculture, fishing, construction, and service sectors of the economy--such as street vending, car washing, and domestic service. Child labor was mainly an issue in the informal economy; however, in some cases child labor was used in production on family farms and small third-party farms. The Ministry of Labor is responsible for enforcing child labor laws and policies; the Office for the Eradication of Child Labor (OATIA) is responsible for coordinating government efforts against child labor. The ministry coordinated with National Institute for Children (PANI) on child protection issues. In general, the ministry effectively enforced child labor regulations in the formal sector through inspections. Resource limitations constrained government efforts to enforce child labor laws in the informal labor sector.

During the year, PANI received 40 complaints of child labor exploitation. From January to November, the OATIA detected and assisted 237 minors working mainly in agriculture, construction, domestic service, car washing, and street sales. During 2009 the Labor Ministry's Inspections Office conducted 149 child labor inspections. In the same year, the OATIA identified 16 minors below the age of 15

engaged in hazardous work as well as 33 minors older than 15 but younger than 18 engaged in such work. The OATIA assisted 388 working minors and referred them to government institutions to be included in social programs that contribute to the progressive elimination of child labor and which favor reinsertion and permanence of children and adolescent workers in the educational system.

The OATIA continued four projects aimed at improving the life and work conditions of adolescent workers and eradicating child labor. The OATIA with assistance from ILO's International Program on the Elimination of Child Labor developed a road map to combat child labor, connected to the national strategic plan to achieve the goals established by the ILO's Decent Work Agenda for the Hemisphere (2006-15).

e. Acceptable Conditions of Work

Monthly minimum wages for the private sector ranged from 128,526 colones (approximately \$254) for household workers to 473,758 colones (\$935) for university graduates. The Labor Ministry effectively enforced minimum wages in the San Jose area, but generally was not effective in enforcing the minimum wage law in rural areas, particularly where large numbers of migrants were employed. The national minimum wage also applied for migrant workers. The minimum wage did not provide a decent standard of living for a worker and family. In August the Labor Ministry publicly recognized that many workers, including in the formal sector, received less than minimum wage. Unions also reported systematic violations of labor rights and provisions concerning working conditions, overtime, and wages in the EPZs.

Inspectors are not authorized to establish fines and sanctions for employers who do not comply with labor laws. Inspectors investigate and refer noncompliance results to labor courts. The process to fine companies and get back wages and/or overtime pay may take years.

The constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Workers generally may work a maximum of eight hours a day or 48 hours weekly. Overtime work is paid at a rate of 50 percent above the stipulated wages or salaries. All workers are entitled to one day of rest after six consecutive days of work and annual paid vacations. 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 generally enforced in the formal labor market in San Jose but poorly enforced 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 also allows the government to inspect workplaces and fine employers for violations. Most firms established such committees but did not use them effectively. There were reports that agricultural workers, particularly migrant laborers in the pineapple industry, worked in unsafe conditions, including being exposed to chemicals without proper training. The Chamber of Pineapple Producers and Exporters disagreed with the reports. The Ministry of Labor, in coordination with the Health Ministry and the National Insurance Institute, conducted three inspections in the provinces of Alajuela, Puntarenas, and Heredia and took concrete actions through the Inspection Directorate and the Occupation Safety Council to address labor problems identified in the pineapple industry.

Although resource constraints continued to hinder the Labor Ministry Inspection Directorate's ability to carry out its inspection mandate, there were 14,385 inspections conducted in 2009. According to the Ministry of Labor, inspections occurred in response to complaints, per advanced scheduling, and at random in specific regions or activities. Workers who considered a work condition to be unhealthy or unsafe must make a written request for protection from the Labor or Health Ministry in order to remove themselves from the condition without jeopardizing their employment. The ministries generally addressed these complaints effectively by sending inspection teams to investigate them and coordinate with each other on follow-up actions.