

COSTA RICA

EXECUTIVE SUMMARY

Costa Rica is a constitutional, multiparty republic governed by a president and a unicameral legislative assembly that are directly elected in multiparty elections every four years. In 2010 voters chose Laura Chinchilla Miranda of the National Liberation Party (PLN), the country's first female president in elections that were generally considered free and fair. Security forces reported to civilian authorities.

Principal human rights abuses reported during the year included poor prison conditions, including overcrowding and cases of prisoner abuse, delays in the judicial process, and commercial sexual exploitation of minors.

Other human rights problems reported were domestic violence against women and children, trafficking in persons, discrimination based on sexual orientation, and child labor.

The government took steps to prosecute officials who committed human rights abuses.

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

a. Arbitrary or Unlawful Deprivation of Life

There was one report that the government or its agents committed arbitrary or unlawful killings. On May 22, prison authorities found an inmate dead in his maximum-security prison cell only days after an attempted prison escape. The autopsy report showed that internal injuries from beatings were the cause of death. On June 15, the Ministry of Justice suspended 10 prison guards on the grounds of possible links to the death. On August 17, judicial authorities detained 10 prison guards for allegedly being involved in the beatings and killing. On August 19, a judge decided to hold five of the guards in pretrial detention for three months and ordered another guard to comply with other restrictive measures. On November 17, a criminal court extended their detention until February 2012, while the judicial investigation continued.

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, there were reports that some government officials employed them. The government investigated, prosecuted, and punished agents responsible for confirmed cases of abuse. Two days before an inmate died in a maximum-security prison (see section 1.a.), he filed a complaint with the Constitutional Chamber of the Supreme Court asking for protection against abuse. On May 20, the prisoner reported that guards beat him and other inmates after an attempted jailbreak on May 11. The court resolution was pending at the time of the prisoner's death on May 22. Prisoners involved in the failed escape attempt said that they were subjected to physical and psychological abuse at the hands of guards following the incident. The death occurred while authorities were investigating the alleged collaboration of prison guards with inmates who tried to escape.

From January to June, the Ombudsman's Office recorded 80 complaints of police abuse, arbitrary detention, torture, and other inhuman or degrading treatment. At the end of June, 35 of these complaints remained under investigation, and the others were either resolved or dismissed.

Prison and Detention Center Conditions

Overcrowding, poor sanitation, difficulties obtaining medical care, and violence among prisoners remained serious problems in some prison facilities. Some prisons had inadequate space available for resting while other prisoners had to sleep on deteriorated mattresses on the floor. Limited access to health services was a major complaint from prisoners. Illegal narcotics readily were available in the prisons, and drug abuse was common. Security and administrative staffing was insufficient to care for the increasing prison population.

Potable water was available in prison facilities. Both the National Mechanism of Prevention of Torture and the Ombudsman's Office reported that between August and September prison authorities installed water purifiers at La Reforma Prison.

Prison overcrowding continued to increase. The prison population exceeded designed capacity by 27 percent, compared with 22 percent in 2010. On June 30, the Justice Ministry's Social Adaptation Division reported a total population of

23,046 under its supervision, including 11,534 prisoners in closed-regime centers, 1,122 persons required to spend nights and weekends in jail, 9,835 in supervised work programs requiring no jail time, and 555 juveniles. The Social Adaptation Division also reported that there were 765 women prisoners at year's end. Prisoners generally were separated by age, gender, and level of security (minimum, medium, and maximum). The Ombudsman's Office confirmed that prison conditions were the same for women and men.

The San Sebastian, San Carlos, Cartago, Liberia, Perez Zeledon, Puntarenas, La Reforma, Gerardo Rodriguez, San Rafael, and Buen Pastor prisons remained overcrowded as of June 30, with the population in pretrial detention experiencing the most overcrowding. In San Sebastian, where most prisoners in pretrial detention were held, 998 prisoners lived in unsanitary conditions in a facility with a designed or planned capacity of 632. To mitigate these conditions, authorities sent some pretrial detainees to long-term detention facilities throughout the country and held them with convicted prisoners.

Prisoners had reasonable access to visitors and could practice their religions. Authorities permitted prisoners and detainees to submit complaints to authorities without censorship and 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 investigated all complaints and referred serious cases of abuse to the public prosecutor. 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 could speak to prisoners and prison employees in confidence and without the presence of prison staff or other third parties.

The Ministry of Justice was constructing new units in the San Carlos, Puntarenas, Liberia, and Perez Zeledon prisons to increase capacity by 1,014 inmates and was implementing the Penitentiary Information System (SIAP), a tracking database with up-to-date records of prisoners. In 2010 the ministry made improvements to the supervised release program by establishing guidelines for sentencing of misdemeanors.

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, drug control police, air wing, and coast guard. The Ministry of Public Works and Transportation supervised the traffic police, and the Ministry of Justice managed the penitentiary police. The government has mechanisms to investigate and punish abuse and corruption. 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 family members. Authorities generally observed these rights in practice. Indigent persons have access to a public attorney at government expense. Those with sufficient personal funds also 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. Special circumstances include cases in which pretrial detention was previously ordered and there is reason to believe that suspects may reach an agreement with accomplices or may obstruct the investigation in some way. Suspects are allowed access to attorneys immediately before submitting declarations. Authorities promptly inform the suspects of any offenses under investigation.

Pretrial Detention: A criminal court may hold suspects in pretrial detention for up to one year, and the Court of Appeals may extend this period to two years in especially complex cases. Every three months the law requires court review of cases of suspects in pretrial detention to determine the appropriateness of continued detention. By law, if a judge declares a case is related to organized crime, special procedural rules apply that establish the maximum period of pretrial detention may not exceed 24 months (although the Court of Appeals may grant one

extension not to exceed an additional 12 months); the statute of limitations is 10 years from the date of the last crime. The Ombudsman's Office reported that authorities used pretrial detention often and not as an exceptional measure. According to the Ministry of Justice, as of June 30, there were 2,945 persons in pretrial detention, constituting approximately 13 percent of the prison population. In some cases delays were attributed to pending criminal investigations; in other cases the delays were due to court backlogs. According to the Statistics Office of the judicial branch, from April 1 to June 30 there were 1,221 prisoners pretrial detainees--56 percent had been imprisoned for three months or less, 36 percent from three to six months, and 8 percent from nine months to two years. As of June 30, there were 529 convicted prisoners in detention awaiting sentencing. In these cases delays were most frequently attributed to a pending appeal process or a verdict subject to and awaiting confirmation.

Amnesty: On August 17, the president pardoned one female inmate.

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 2010 approximately 235,000 criminal complaints were filed with the judicial branch, of which 4 percent (9,835 cases) went to trial with a conviction rate of 61 percent. Many cases filed did not have sufficient evidence to go to trial.

Additionally, there were allegations that judges' decisions were influenced by intimidation or that they accepted payment for decisions that favored the accused. The Supreme Court investigated and found no cases of corruption but some procedural errors. The judicial inspection tribunal investigated a judge who placed foreigners awaiting trial on charges of drug trafficking under house arrest instead of holding them at the maximum-security prison. In July the inspection tribunal found a serious error in the judge's decision and referred the case to the Supreme Court to determine possible sanctions. On November 14, the Supreme Court decided to suspend the judge from the practice of law for one month.

Trial Procedures

The constitution and law provide 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 when 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 detainees and attorneys access to government-held evidence, and during the trial defendants can question and present witnesses on their own behalf. Defendants enjoy a presumption of innocence and, if convicted, have the right to appeal. The law extends these rights to citizens and noncitizens alike. Fast track courts, which prosecute cases when suspects are arrested on the spot for alleged transgressions, provide the same protections and rights as other courts.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Court Decisions

After a one-year extension to lift the ban on invitro fertilization, in August the Inter-American Commission on Human Rights determined that the country failed to comply with its recommendations and referred a case involving the country to the Inter-American Court of Human Rights for trial and possible sanctions. In the report on the merits, the commission considered that the ban was an “arbitrary interference in the right to private and family life and the right to found a family.”

Civil Judicial Procedures and Remedies

An independent and impartial judiciary presides over lawsuits in civil matters, including human rights violations. Administrative and judicial remedies for alleged wrongs are available to the public.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice (see section 1.e., Regional Human Rights Court Decisions).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press.

Freedom of Press: Journalists and media company owners continued to criticize legislation that imposes criminal penalties, including lengthy jail sentences instead of fines, for common press infractions and argued that such legislation promoted self-censorship.

Censorship or Content Restrictions: On June 27, the advertising control office ordered a Catholic radio station to suspend an advertisement that used the voice of a child to warn about alleged dangers of invitro fertilization.

Internet Freedom

There were no government restrictions on access to the Internet or credible 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.

Academic Freedom and Cultural Events

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

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

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/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.

Protection of Refugees

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The 2010 immigration law created a separate office within the General Directorate of Immigration to deal specifically with refugee problems. The law also created 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 2010, but the tribunal did not meet until May 16.

According to a local nongovernmental organization acting as an implementing agency of the UNHCR, approximately 56 extraregional asylum seekers arrived during the year. Between 15 and 20 decided to remain in the country.

According to the UNHCR, as of September 30, there were 725 requests for asylum including 54 requests from extraregional persons. From January to September, 181 asylum seekers were recognized. Many asylum seekers did not appear at the Immigration Directorate to continue their status application process. The government and UNHCR reported that most of these individuals simply used the asylum request process as a means of obtaining documentation that enabled them to transit the country on their journey toward the United States.

Temporary Protection: Due to low recognition rates (approximately 25 percent),

the UNHCR had to consider an increasing number of rejected asylum seekers as “persons of concern” in need of international protection. UNHCR officials estimated that there were approximately 400 to 500 persons of concern annually, whose cases it reviewed to determine whether they needed international protection.

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 on the plantations. In these cases the children were not registered as Costa Rican citizens at birth because the families did not think it necessary. However, when the families returned to Panama, the children were not registered there either. A similar problem occurred with Nicaraguan families who migrated to work on coffee plantations. The government attempted to advise the migrant population to register at birth all children born in the country (see section 6). As of December 15, immigration authorities reported no new cases of stateless persons during the year.

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. The independent Supreme Electoral Tribunal is responsible for the integrity of the elections, and the authorities and citizens respected election results.

Elections and Political Participation

Recent Elections: In national elections held in February 2010, 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 democratic way in which the process unfolded.

Participation of Women and Minorities: Women were represented with a degree of visibility in government; indigenous people and people of African descent, representing approximately 4 percent of the population (2000 census), were not. The electoral code 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. There were seven women among the 22 cabinet ministers. There were 22 women in the 57-seat Legislative Assembly, including the vice president of the assembly and nine legislative committee chairwomen. The deputy chief justice of the Supreme Court, president of the High Court of Civil Appeals, and president of the Constitutional Chamber were women. Indigenous persons did not play a significant role in politics or government. There were no indigenous or black members in the Legislative Assembly or the cabinet. A black person headed one government agency.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws, although there were reports of government corruption during the year.

On April 27, a criminal court sentenced former president Miguel Angel Rodriguez to five years in prison as the instigator of aggravated corruption and barred him from public office for 12 years. On August 10, a trial court sentenced a former chief executive officer of an autonomous institution to 15 months in prison for using an official helicopter for personal purposes and barred him from public office for three years.

On November 15, the Supreme Court decided to open a judicial investigation of a substitute justice who was the main suspect accused of leaking information about a trial. The substitute justice renounced his position after the press revealed the possible leak of information.

The Prosecutor's Office investigated credible reports of corruption in at least 10 municipal governments. The Ministry of Public Security suspended more than 1,000 uniformed police officers in 15 months (the force has approximately 12,000 officers). Most of the suspensions occurred while the officers were being investigated for misuse of resources, abuse of authority, and domestic violence. Uniformed police officers were arrested and given pretrial detention for involvement in drug trafficking or other organized criminal activity in several high-profile cases. Despite the measures taken to investigate and address corruption, there was a widespread public perception that corruption remained a problem in the uniformed police force.

Public officials are subject to financial disclosure laws that require senior officials

to submit sworn declarations of income, assets, and liabilities. The public ethics prosecutor, comptroller general, attorney general, and ombudsman are responsible for combating government corruption.

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 generally operated without government restriction, while investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

UN and Other International Bodies: The government cooperated with visits by representatives of the UN and other international organizations in connection with the investigation of abuses and monitoring of human rights problems. In April the UN special rapporteur on the rights of indigenous peoples visited the country to discuss the situation of indigenous peoples.

Government Human Rights Bodies: The Ombudsman's Office reviews 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 of the Legislative Assembly studies and reports on problems relating to the violation of human rights, and it also reviews bills relating to human rights and international humanitarian law.

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

Rape and Domestic Violence: 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. However, rape was underreported due to fear of retribution, further violence, and social stigma. According to the National Institute for Women (INAMU), the rape law applies to spousal rape, although in practice spousal rape cases were much more difficult to prove. Collection of physical evidence in all rape cases presented a challenge. There was only one location in the country that had rape kits to collect physical evidence to be used in prosecutions. The distance women needed to travel to utilize this resource was prohibitive for some. According to the judicial branch's Statistics Office, there were 1,744 reported rape cases in 2010; ultimately, courts tried 329 cases of rape, 21 cases of attempted rape, and 49 cases of aggravated rape in 2010, and convicted and sentenced 172, 12, and 31 defendants, respectively.

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 persons 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 and in three other specialized centers and temporary shelters. INAMU provided protection to 150 women between January and June but reported that, as of May 15, nine women and girls had died from domestic violence. This represented an increase from seven deaths reported from January to May 2010. INAMU maintained a domestic abuse hotline connected to the 911 emergency system and had provided counseling to 3,406 women as of June. In 2010, according to the judicial branch's Statistics Office, authorities opened 12,510 cases of domestic violence throughout the country. There were 393 cases tried and 196 persons sentenced for crimes of violence against women.

The public prosecutor, police, and ombudsman have offices dedicated to domestic violence problems. During the year INAMU held 12 training workshops for officials from institutions that are part of the National System of Attention and Prevention of Violence against Women. INAMU, together with the presidency, joined a UN media campaign to end violence against women. In November INAMU launched a separate media campaign to educate civil society about the equal rights of women.

Sexual Harassment: 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.

Reproductive Rights: Individuals have the right to decide freely and responsibly the number, spacing, and timing of children, have information and access safe methods of contraception from public hospitals and medical attention centers, and receive medical care during pregnancy and childbirth. In 2010 approximately 91 percent of women in rural areas received skilled medical attention; in general, according to the UN Population Fund, 99 percent of births were attended by skilled health personnel.

The public health-care system plays a major role in how women access contraception, including sterilization. Women's lack of access to invitro fertilization remained a contested subject (see section 1.e.). In public as well as private health care, the right to obtain and use contraceptives extends to all members of the population. Patients who pay into the public health-care system receive contraceptives at no additional fee, and 72 percent of women ages 15 to 49 used a modern method of contraception.

Discrimination: Women enjoyed the same legal status and rights as men under the law. 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. In 2010 the National Institute of Statistics and Census (INEC) reported that women represented 43.5 percent of the labor force. The law requires that women and men receive equal pay for equal work; in 2010 INEC estimated that earnings for women were

91.3 percent of earned income for men.

Children

Birth Registration: Citizenship is obtained from birth within the country's territory or from either of one's parents. There were occasional problems encountered in the registration at birth of children born of migrant parents (see section 2.d.).

Child Abuse: Abuse of children was a growing problem. In 2010 the judicial branch's Statistics Office reported 607 cases of sexual abuse of minors and four cases of attempted abuse, with 322 and two perpetrators convicted, respectively. In addition, there were 23 cases involving sex with minors, 12 cases of sex with minors with payment involved, and six cases of sexual corruption of minors. From January to November, the autonomous National Institute for Children (PANI) assisted 30,640 children and adolescents, including 2,922 cases of physical abuse, 595 cases of intrafamilial sexual abuse, and 406 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. In May the National Children's Hospital launched a campaign to draw attention to the increasing number of child abuse cases reported in the country.

Sexual Exploitation of Children: The minimum age of consensual sex is 18 years. The law criminalizes the commercial sexual exploitation of children and provides sentences of up to 18 years in prison. The law provides for sentences of two to 10 years in prison for statutory rape and 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 government, security officials, and child advocacy organizations acknowledged that commercial sexual exploitation of children remained a serious problem. From January to November, PANI reported 67 cases of commercial sexual exploitation of minors. The government also identified child sex tourism as a serious problem.

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

Anti-Semitism

The Jewish Zionist Center estimated there were 3,000 Jews in the country. There was a report of anti-Semitic graffiti at a bridge intersection on the main highway between San Jose and Puntarenas.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/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 discriminatory practices in education or in the provision of other state services. The Ombudsman's Office reported that despite 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. During 2010 the Ombudsman's Office received reports of lack of access to public transportation, including noncompliance with accessibility requirements or malfunctioning of hydraulic wheelchair lifts for public transportation vehicles.

A political party, Accessibility without Exclusion, represented the interests of persons with disabilities and held four seats in the Legislative Assembly.

National/Racial/Ethnic Minorities

The greatest concentration of citizens of African descent (74 percent per the 2000 census) was in the Atlantic province of Limon, one of the least developed areas of the country. In 2010 INEC reported that 24 percent of inhabitants in the Atlantic region lived in poverty. The Limon region had one of the highest rates of unemployment (8 percent in 2010) and crime (23 percent of the country's

homicides from January to May). In February the Security Ministry declared the province of Limon a priority in its efforts to combat drug trafficking and organized crime. The government tried to implement the Port-City of Limon Project, a development program financed by the World Bank and the government; however, there were numerous public complaints that the project had not produced results. During the year authorities launched initial procurement processes; five of 12 institutions involved in the project began the process of contracting services and implementing public works. The scheduled date of completion was June 2014.

There were sporadic reports of discrimination, including labor discrimination, usually directed against Nicaraguans. The Immigration Office launched an awareness campaign highlighting the positive contributions of migrants living in the country.

Indigenous People

During 2010 the Ombudsman's Office received complaints related to deficient road infrastructure and lack of bridges in reserve lands, lack of access to public services and public transportation, problems with use and possession of land, and difficulties imparting indigenous education. 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 continued monitoring the project and its impact on the indigenous community.

Government institutions--including the Ministries of Foreign Affairs, Labor, and Education; Social Security Agency; Immigration Office; and Civil Registry--coordinated actions during the year to assist the Ngobe-Bugle population migrating to rural areas to work in plantations during the coffee harvest season. The government continued efforts to implement objectives emanating from meetings with Panamanian counterparts, working on issues such as access to health care and education, mutual recognition of individual identification documents, and raising awareness about employment and labor law.

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

There were cases of discrimination against persons based on sexual orientation,

ranging from employment to access to health care. For example, in June an LGBT activist announced that he suffered discrimination based on his sexual orientation at his new job at a public institution. In July the Constitutional Chamber ruled against the owner of a bingo hall for discriminating against a gay couple based on the requirement that employees not engage in discriminatory behavior. The owner was ordered to pay damages to the claimants.

Other Societal Violence or Discrimination

The law and a presidential decree prohibit discrimination based on HIV/AIDS in health care, employment, and education. Nevertheless, some HIV-positive individuals reported that they were denied private health insurance coverage based on their HIV status. From January to June, the Ombudsman's Office reported receiving four complaints of discrimination against patients with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law allows workers to form and join unions of their choice without prior authorization, allows worker organizations to conduct their activities without government interference, provides for the right to strike, and protects the right of workers to organize and bargain collectively. 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. During the year the Constitutional Court overturned an article of the labor code stipulating that at least 60 percent of the workers in an enterprise had to support a strike. The court did not set a minimum number of employees necessary for a strike to be legal, and it noted that the Legislative Assembly should establish a percentage not to exceed 50 percent. The law restricts the right to strike of workers in services designated as essential by the government, but it also includes sectors such as oil refineries and ports not considered essential under international standards. The law prohibits antiunion discrimination and provides for reinstatement of workers fired for union activity.

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, but the law also permits direct bargaining agreements with nonunionized workers in both unionized and nonunionized

businesses. The law also permits the formation of “solidarity associations,” which were often organized by employers. The law prohibits such associations from representing workers in collective bargaining negotiations or any other way that assumes the functions or inhibits the formation of trade unions. On July 22, an amendment to the constitution granting solidarity associations legal status under the constitution went into effect. Although the amendment did not change the role or requirements for solidarity associations, it strengthened their legal standing, as constitutional changes require votes by two successive legislatures to approve.

Although public sector employees are permitted to bargain collectively, a 2006 Supreme Court decision held that some fringe benefits received by certain public employees were disproportionate and unreasonable. The court repealed sections of collective bargaining agreements between public sector unions and government agencies, thus restricting this right in practice. However, according to the Labor Ministry, there were substantive changes regarding the right of public sector employees to bargain collectively. In 2010 resolutions of the Second Chamber of the Supreme Court (Labor Appeals) emphasized the validity and the importance of collective bargaining in the public sector. In January the Office of the Solicitor General ratified the right of public workers to negotiate collective bargaining agreements.

The government generally enforced these laws in practice. The Ministry of Labor received reports of alleged unfair labor practices and harassment of union activists in private companies and public institutions, and it referred cases to the labor courts. In May the ministry issued the protocol of good labor practices in labor inspection that includes a procedure for reinstatement of workers fired for union activity. Cases of antiunion discrimination often took an extremely long time to obtain a final ruling from the court due to numerous appeals. The International Trade Union Confederation noted that the reinstatement process for workers that were 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 had on labor cases.

Workers exercised the right to form and join unions and to strike without government interference. Unions noted that the government’s broad definition of essential services denied many workers the right to strike.

In the private sector, “direct bargaining arrangements” between employers and nonunionized workers occurred more commonly than collective bargaining. In May the International Labor Organization (ILO) raised concerns that the number of

direct bargaining arrangements between employers and employees had increased substantially in the past decade, while there had been only a slight increase of collective bargaining agreements. The ILO reiterated its concerns that such agreements disadvantaged workers because they did not result from balanced negotiations of two independent, adequately equipped parties.

Labor unions asserted that in practice, solidarity associations conducted negotiations and 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. According to the ILO, such associations, to the extent that they displaced trade unions, in effect discouraged collective bargaining, affected the independence of workers' organizations from employers' influence, and infringed on the right to organize and bargain collectively.

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 also were reports that migrant workers in agriculture frequently were hired on short-term contracts through intermediaries. These workers faced antiunion discrimination and challenges in organizing, and they often were more vulnerable to labor exploitation.

The ILO noted that there were no trade unions operating in the country's Export Processing Zones (EPZs) and identified the zones as a hostile environment for organizing. Labor unions asserted that efforts of workers in EPZs to organize were met with illegal employment termination, threats, and intimidation and that EPZ employers maintained blacklists of workers identified as activists.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor and distinguishes between forced labor, which involves slave-like conditions, and labor exploitation, which describes unacceptable but less egregious working conditions. The government failed to enforce the law effectively, and there were reports that such practices occurred. There were isolated reports of men, women, and children subjected to labor exploitation in domestic service and street vending as well as in other sectors.

The judicial investigative police identified six alleged victims of labor exploitation

in four cases during the year, but they dismissed three of the cases for lack of evidence. There was only one case under investigation as of December. The government provided training to labor inspectors, local government officers, and social health workers. The government also organized media awareness campaigns on trafficking for civil society; international and nongovernmental organizations sponsored these efforts.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The child and adolescence code prohibits labor of all children under age 15 without any exceptions; it supersedes the minimum working age of 12 established in the labor code, which had not been amended to reflect this change. Adolescents between the ages of 15 and 18 may work 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.

The government generally enforced laws against child labor effectively in the formal sector. During 2010 the Labor Ministry's Inspections Office detected 94 cases of child labor. In the same year, the Labor Ministry identified eight minors below the age of 15 engaged in hazardous work. The Office for the Eradication of Child Labor (OATIA) assisted 247 working minors and referred them to government institutions to be included in social programs. On March 25, the government published the comprehensive list of hazardous occupations adopted in 2010. The OATIA implemented a project with a local government aimed at improving the life and working conditions of adolescent workers and eradicating child labor. The OATIA, with assistance from ILO's International Program on the Elimination of Child Labor, continued implementation of a road map to eradicate 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).

Child labor was a problem mainly in the informal economy, especially in agricultural, construction, sales, and small food-product manufacturing. The worst forms of child labor occurred in agriculture on small third-party farms in the formal sector and on family farms in the informal sector. The worst forms of child labor also occurred in some service sectors, such as construction, fishing, street vending, and domestic service.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

Monthly minimum wages for the private sector ranged from 135,000 colones (approximately \$270) for household workers to 498,000 colones (\$993) for university graduates. According to a 2011 INEC survey, the poverty line was 92,122 colones (\$184) in urban areas and 70,970 colones in rural areas (\$141). 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.

The Labor Ministry's Inspection Directorate (DNI) was responsible for labor inspection, in collaboration with the social security agency and the Insurance Institute. Although resource constraints continued to hinder DNI's ability to carry out its inspection mandate, there were 15,212 inspections conducted during the year. According to the Ministry of Labor, inspections occurred in response to complaints, per advanced scheduling, and at random in specific regions or activities. The ministries generally addressed complaints effectively by sending inspection teams to investigate and coordinate with each other on follow-up actions. Inspectors cannot establish fines or sanctions for employers who do not comply with labor laws; rather inspectors investigate and refer noncompliance results to labor courts. The process to fine companies and receive back wages or overtime pay may take years.

The Labor Ministry generally enforced minimum wages effectively in the San Jose area but 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 Labor Ministry publicly recognized that many workers, including in the formal sector, received less than the minimum wage. The government continued to implement the campaign for minimum wage compliance launched in 2010. From August 2010 to July 2011, the Labor Ministry conducted 9,135 visits to businesses to ensure employers' compliance with minimum wage laws. Seventy-eight percent of businesses which failed to comply with paying the minimum wage corrected the problem after the

inspection. The Labor Ministry continued pursuing administrative steps against the employers that failed to make corrections.

While the Labor and Health Ministries shared responsibility for drafting and enforcing occupational health and safety standards, they did not enforce these standards effectively in the formal or informal sectors.

Unions also reported systematic violations of labor rights and provisions concerning working conditions, overtime, and wages in the EPZs. Labor unions reported that overtime pay violations, such as nonpayment, and mandatory overtime were common in the private sector and particularly in EPZ industries. There were reports that agricultural workers, particularly migrant laborers in the pineapple industry, worked in unsafe conditions, including exposure to chemicals without proper training. The national insurance company reported 58,195 cases of workplace-related illnesses and injuries and 39 workplace fatalities during the first six months of the year.