

# **COSTA RICA 2017 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Costa Rica is a constitutional republic governed by a president and a unicameral legislative assembly directly elected in multiparty elections every four years. In 2014 voters elected Luis Guillermo Solís of the Citizen Action Party (PAC) during a second round of elections. In simultaneous legislative elections in 2014, the PAC, Broad Front, and Social Christian Unity Party gained seats and formed a coalition that gave them control of the legislature. The National Liberation Party (PLN) gained the largest number of seats but did not achieve a majority. In 2015 the PLN and other opposition parties formed a bloc that gave them control of the legislature. All elections were generally considered free and fair.

Civilian authorities maintained effective control over the security forces.

There were no reports of egregious human rights abuses.

The government investigated and prosecuted officials who committed abuses.

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

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

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

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution prohibits such practices. The Ombudsman's Office received 132 complaints of police abuse, arbitrary detention, torture, and other inhuman or degrading treatment during the first six months of the year. Abuse by prison police was a recurring complaint, according to the Ombudsman's Office, but very few of the accusers followed through and registered their complaints with the authorities.

The government investigated, prosecuted, and punished police responsible for confirmed cases of abuse.

### **Prison and Detention Center Conditions**

Prison conditions were harsh due to gross overcrowding, inadequate sanitary conditions, difficulties obtaining medical care, and violence among prisoners.

Physical Conditions: The prison population exceeded the designed capacity of prisons by 30 percent, according to official statistics dated June. Prison overcrowding made security and control difficult and contributed to health problems. Poor conditions included inadequate space for resting, deteriorated mattresses on the floor, and inadequate access to health services. Illegal narcotics were readily available in the prisons and drug abuse was common. The Ombudsman's Office recorded 61 complaints of deficient conditions in prisons, including the migrant detention centers, during the first six months of the year. The Ministry of Justice was responsible for the prison system, while the Immigration Office ran the facility holding illegal migrants until they were deported or regularized their immigration status.

The San Sebastian, Gerardo Rodriguez, La Reforma, San Rafael, San Carlos, Limon, Pococi, Puntarenas, Liberia, Perez Zeledon, and Centro Adulto Joven (at La Reforma) prisons remained overcrowded, with the population in pretrial detention experiencing the most overcrowding. Authorities held male pretrial detainees with convicted prisoners on occasion. In San Sebastian, where most of these prisoners in pretrial detention were held, 705 prisoners lived in unsanitary conditions in a facility with a planned capacity of 556.

The detention center for undocumented migrants in Hatillo, a suburb of San Jose, was poorly ventilated, at times overcrowded, and it had no recreation area. The Office of the UN High Commissioner for Refugees (UNHCR) and the government ombudsman monitored detention conditions, with UNHCR visiting monthly and the ombudsman preparing annual reports.

Security and administrative staffing were insufficient to care for the needs of prisoners, including ensuring their personal safety. The Ministry of Justice's Social Adaptation Division reported 21 deaths in closed regime centers from January to August. Three of these deaths were homicides and four were suicides; the remainder were from natural causes.

Administration: Authorities permitted prisoners and detainees to submit complaints to authorities without censorship and request investigation of credible allegations of inhuman conditions. If complaints were not processed, prisoners could submit them to the Ombudsman's Office, which investigated all complaints at an administrative level. The Ombudsman's Office, through the national prevention mechanism against torture, periodically inspected all detention centers.

Independent Monitoring: 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.

Improvements: In February prison authorities began providing some convicted prisoners with electronic ankle-monitoring devices. In June the Ministry of Justice inaugurated two new prison modules in San Rafael and Perez Zeledon, adding capacity for 640 and 256 inmates, respectively, which allow inmates to take part in activities including studying, working, and social rehabilitation. During the year the Ministry of Justice implemented some remodeling and other measures to reduce overcrowding at the San Sebastian prison, after a judge issued a resolution in 2016 ordering authorities to close the prison over a period of 18 months unless improvements were made.

#### **d. Arbitrary Arrest or Detention**

The constitution prohibits arbitrary arrest and detention and provides for the right for any person to challenge the lawfulness of his/her arrest or detention in court, and the government generally observed these requirements.

#### **Role of the Police and Security Apparatus**

The country has no military forces. 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, border police, air wing, and coast guard. The Immigration Office of the Ministry of Interior is responsible for the immigration police. The Ministry of Public Works and Transportation supervises the traffic police, the Ministry of Environment supervises park police, and the Ministry of Justice manages the penitentiary police. Several municipalities manage municipal police forces. The government has

effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. The number of licensed private security services was significantly greater than the number of police (28,321 agents compared to 14,035 uniformed police officers). There were no reports of impunity involving the private security forces during the year.

### **Arrest Procedures and Treatment of Detainees**

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. Indigent persons have access to a public attorney at government expense. Those without sufficient personal funds are also able to use the services of a public defender. With judicial authorization, authorities may hold a suspect incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days. Special circumstances include cases in which pretrial detention previously was ordered and there is reason to believe a suspect may reach an agreement with accomplices or may obstruct the investigation. Suspects were allowed access to attorneys immediately before submitting statements before a judge. Authorities promptly informed suspects of any offenses under investigation. Habeas corpus provides legal protection for citizens against threats from police; it also requires judges to give a clear explanation of the legal basis for detention of and evidence against a suspect.

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. The law requires a court review every three months of cases of suspects in pretrial detention to determine the appropriateness of continued detention. If a judge declares a case is related to organized crime, special procedural rules require that the period of pretrial detention not exceed 24 months (although the court of appeals may grant one extension not to exceed an additional 12 months). Authorities frequently used pretrial detention. According to the Ministry of Justice, as of June 30, persons in pretrial detention constituted approximately 16 percent of the prison population. In some cases delays were due to pending criminal investigations and lengthy legal procedures. In other cases the delays were a result of court backlogs.

### **e. Denial of Fair Public Trial**

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

### **Trial Procedures**

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

All defendants have the right to the presumption of innocence, to be informed promptly and in detail of the charges, and to trial without undue delay. All trials, except those that include juvenile defendants, are public. Trials that involve victims or witnesses who are minors are closed during the portion of the trial in which the minor is called to testify. Defendants have the right to be present during trial and communicate with an attorney of choice in a timely manner, or to have one provided at public expense. Defendants enjoy the right to adequate time and facilities to prepare a defense and free assistance of an interpreter as necessary. Defendants may confront prosecution or plaintiff witnesses and present witnesses and evidence on their own behalf. Defendants have the right not to be compelled to testify or confess guilt. Defendants, if convicted, have the right to appeal. 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.

### **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. Individuals and organizations may appeal adverse domestic decisions to regional human rights bodies.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution prohibits such actions, and there were no reports the government failed to respect these prohibitions.

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

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression.

#### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private communications without appropriate legal authority. The International Telecommunication Union reported that in 2016, 66 percent of individuals used the internet.

#### **Academic Freedom and Cultural Events**

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

### **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful 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/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with UNHCR and other humanitarian organizations in

providing protection and assistance to refugees, asylum seekers, stateless persons, or other persons of concern.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has an established system for providing protection to refugees. The law requires authorities to process the claims within three months of receipt, but decisions took an average of 10 months.

The number of persons seeking asylum increased significantly in recent years. The refugee unit received 3,156 asylum applications from January to June, mainly from Venezuela, El Salvador, and Colombia, compared with 4,470 in all of 2016.

The Appeals Tribunal, which adjudicates all migration appeals, as of July had a backlog of 1,056 asylum cases. UNHCR provided support to the Refugee Unit and the Appeals Tribunal to hire additional legal and administrative personnel to assist with reduction of the backlog.

Employment: Refugee regulations provide asylum seekers an opportunity to obtain work permits if they have to wait beyond the three months the law allows for a decision on their asylum claim. Few asylum seekers took advantage of this right, largely because they were unaware of their eligibility. The refugee unit failed to educate employers effectively about this right.

Access to Basic Services: By law asylum seekers and refugees have access to public services and social welfare programs, but access was often hampered by lack of knowledge about their status in the country and feelings of xenophobia among some service providers. For example, asylum seekers without employers (who constituted the majority of asylum seekers) faced restrictions when enrolling voluntarily as independent workers in the public health system.

Asylum seekers received provisional refugee status documents legalizing their status after appearing for an interview with the General Directorate of Immigration, for which the estimated wait time was approximately two months. Provisional refugee ID cards do not resemble other Costa Rican identity documents, so while government authorities generally accepted them, many Costa Rican citizens did not. Upon receiving refugee status, which typically took another nine months, refugees could obtain an identity document similar to those used by nationals at a cost of 37,400 colones (\$66), renewable every two years.

Durable Solutions: During the year the government continued to implement a “Protection Transfer Arrangement” in coordination with UNHCR and the International Organization for Migration for refugee resettlement in third countries. The government was committed to local integration of refugees both legally and socially and to facilitating their naturalization process.

Temporary Protection: There were no programs for temporary protection beyond refugee status. Due to low recognition rates (approximately 13 percent of applicants received asylum during the first six months of the year), UNHCR had to consider a number of rejected asylum seekers as persons in need of international protection. UNHCR provided support and access to integration programs to individuals still pursuing adjudication and appeals. The individuals requesting refugee status were mainly from Venezuela, El Salvador, and Colombia; the majority were male adults and extended families.

### **Stateless Persons**

The Ministry of Foreign Affairs cooperated with UNHCR efforts on statelessness with indigenous populations and reported no cases of the recognition of a person’s status as stateless during the first six months of the year. There were no reports of stateless persons who were also refugees. There continued to be problems of statelessness of indigenous children and children of seasonal workers in the border areas with Panama and Nicaragua derived from the difficulties linked to birth registrations. Members of the Ngobe-Bugle indigenous group from Panama often worked on Costa Rican farms and occasionally gave birth there. In these cases parents did not register Ngobe-Bugle children as Costa Rican citizens at birth because they did not think it necessary, although the children lacked registration in Panama as well. Approximately 1,200 children were affected. Government authorities worked together with UNHCR on a program of birth registration and provision of identification documents to stateless persons known as “Chiriticos.” Mobile teams went to remote coffee-growing areas for case identification and registration. UNHCR and the National Civil Registry started a project along the northern border for individuals of Nicaraguan origin to facilitate procedures for late birth registration.

### **Section 3. Freedom to Participate in the Political Process**



The constitution and laws provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

Recent Elections: In 2014 voters elected PAC's Luis Guillermo Solis president during a second round of elections, after no candidate achieved 40 percent of the first-round vote. Presidential and legislative elections are simultaneous. In legislative elections the National Liberation Party gained the most seats, but three parties--the PAC, Broad Front, and Social Christian Unity Party (PUSC)--gained enough seats in the 57-member legislative assembly to form a coalition that gave them control of the legislature in 2014. In 2015 the PLN and other opposition parties formed a bloc that gave them control of the legislature. In municipal elections in 2016, the PLN and PUSC gained control of 62 of 81 municipalities. Observers considered the elections generally free and fair. The Organization of American States team that observed the elections noted that for the first time the election process included citizens voting from abroad.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process, and they did participate. Women and persons of African descent were represented in government, but indigenous people were not. In May 2016 the Supreme Elections Tribunal imposed strict gender quotas for political parties, reaffirming existing regulations that all political parties must guarantee gender parity across their electoral slates and confirming that gender parity must extend vertically. The electoral code requires that a minimum of 50 percent of candidates for elective office be women, with their names placed alternately with men on the ballots by party slate.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were isolated reports of government corruption during the year.

Corruption: In July officials began looking into possible corruption and influence peddling related to loans and policies benefiting a cement importer, Juan Carlos Bolanos. The National Assembly, the central bank's financial system regulator, and the judicial sector began investigating why a state-owned bank provided large

loans without the usual collateral and whether prominent politicians were engaged in influence peddling. No specific charges had been brought as of October.

Financial Disclosure: Public officials are subject to financial disclosure laws that require senior officials to submit sworn declarations of income, assets, and liabilities. The law requires income and asset disclosure by appointed and elected officials. The content of the declarations is not made available to the public. The law stipulates administrative sanctions for noncompliance and identifies which assets, liabilities, and interests public officials must declare. Officials are required to file a declaration annually and upon entering and leaving office.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

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

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 the person 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. 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**

#### **Women**

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape and domestic violence, and provides penalties from 10 to 18 years in prison for rape. The judicial branch generally enforced the law.

The National Institute for Women reported that 16 women were killed (including seven femicides) during the first six months of the year. 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.

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.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: Women enjoy the same legal status and rights as men. The law prohibits discrimination against women and obligates the government to promote political, economic, social, and cultural equality. The law requires women and men receive equal pay for equal work. In 2014 the National Institute of Statistics and Census (INEC) estimated earnings for women were 92 percent of earned income for men.

## **Children**

Birth Registration: Citizenship is obtained from birth within the country's territory or can be derived if either parent is Costa Rican. Birth registration was not always automatic, and migrant children were especially at risk of statelessness since they did not have access to legal documents to establish their identity if their parents did not seek birth registration for them.

Child Abuse: The autonomous National Institute for Children (PANI) reported violence against children and adolescents continued to be a concern. For additional information, see [www.unicef.org/protection/](http://www.unicef.org/protection/).

Early and Forced Marriage: The minimum legal age of marriage is 18. The legislative assembly approved the Prohibition of Inappropriate Relations law, which entered into force on January 13, increasing penalties for sex with minors and more clearly outlawing child marriage. The crime carries a penalty of up to three years in prison for an adult having sex with a person under age 15, or under

18 if the age difference is more than five years. The law bans marriage for anyone under 18.

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 16 years in prison for violations. 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. The government 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. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

The Jewish Zionist Center estimated there were 3,000 Jews in the country. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities; however, the government did not effectively enforce the law. The law establishes a clear right to employment for persons with disabilities and sets a hiring quota of 5 percent of vacant positions in the public sector.

Although the law mandates access to buildings for persons with disabilities, the government did not enforce this provision, and many buildings remained inaccessible to persons with disabilities. Both the government policy on education and the national plan for higher education establish the right to education for students with disabilities.

The Supreme Elections Tribunal took measures (voting procedures, facilities, materials, and trained personnel) to provide for fully accessible elections for all persons with disabilities.

### **National/Racial/Ethnic Minorities**

The constitution establishes that the country is a multiethnic and multicultural nation. According to the Ombudsman's Office, however, the country lacked an adequate legal framework to ensure adequate mechanisms to combat discrimination, facilitate the adoption of affirmative action for individuals who suffer discrimination, and establish sanctions for those who commit discriminatory acts.

### **Indigenous People**

Land ownership continued to be a problem in most indigenous territories. The law protects reserve land as the collective, nontransferable property in 24 indigenous territories; however, 38 percent of that land was in nonindigenous hands. On August 10, an indigenous person was injured during a dispute with nonindigenous persons over a farm located in the Cabagra reservation.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitution establishes that all persons are equal before the law and no discrimination contrary to human dignity shall be practiced. Discrimination against persons based on sexual orientation and gender identity is prohibited by a series of executive orders and workplace policies but not by national laws. Transgender persons were able to change their gender on their identity documents through an administrative law judge's decision and later registration in the Civil Registry Office.

There were cases of discrimination against persons based on sexual orientation, ranging from employment, police abuse, and education to access to health-care services. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) organizations operated freely and lobbied for legal reforms.

On June 15, the board of directors of the Social Security Agency approved the provision of hormone replacement and psychological therapy for transgender patients.

### **HIV and AIDS Social Stigma**

Although the law prohibits discrimination based on HIV/AIDS in health care, housing, employment, and education, some discrimination was reported.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join independent unions, bargain collectively, and conduct legal strikes, and the government respected these rights. The law prohibits antiunion discrimination and provides for reinstatement of workers fired for union activity. 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, except for foreign workers who are married to citizens of the country and have legally resided in the country for at least five years. Unions must register, and the law provides a deadline of 15 days for authorities to reply to a registration request.

A new procedural labor code entered into effect on July 25 and lowered legal requirements to exercise the right to strike, moving the required minimum percentage of votes in favor of a strike in an enterprise from 60 percent to 50 percent. The law restricts the right to strike of workers in services designated as essential by the government, including in sectors such as oil refineries and ports that are not recognized as essential services under international standards. On July 25, a new labor procedural code (Law No. 9343) entered into force that is intended to streamline labor procedures in the courts, including those related to antiunion discrimination, and to reform provisions regarding freedom of association and trade union freedom in the courts.

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. The law also permits two other types of worker organizations unique to the country: “solidarity associations,” legal entities

recognized by the constitution that have both management and employee membership and serve primarily to administer funds for severance payments, and “permanent committees,” enterprise-level bodies made up of three workers elected to negotiate “direct agreements” with employers. Both entities may coexist and share membership with labor unions. The law prohibits solidarity associations from representing workers in collective bargaining negotiations or in any other way that assumes the functions or inhibits the formation of trade unions. The law also requires that permanent committee members be elected freely by secret ballot without intervention of the employer.

Although public-sector employees are permitted to bargain collectively, the Supreme Court held that some fringe benefits received by certain public employees were disproportionate and unreasonable, and it repealed sections of collective bargaining agreements between public-sector unions and government agencies, thus restricting this right in practice.

The government generally enforced applicable laws, although procedures were subject to lengthy delays and appeals. While the law does establish sanctions (fines and fees) for infractions, only the judiciary has the authority to apply such sanctions. Cases reach the judiciary both through labor inspections and through legal complaints filed by workers. The law requires labor inspectors to initiate legal cases with the judiciary after exhausting the administrative process, which involves an initial inspection, a notification to the employer of the infraction, a period to correct the infraction, a reinspection, and (if the infraction persists) a final report finding the infraction. The amount of fines and fees is determined by the severity of the infraction and is based on the minimum wage. Penalties were not sufficient to deter violations, in light of the lengthy process to resolve cases. To reduce delays, the new procedural labor code replaces written procedures with oral hearings, requires labor claims to be processed within two years, and sets up a special summary procedure for discrimination claims. The new labor code also strengthens protections for labor union members, including protections against discrimination for labor affiliation and special protections via special expedited proceedings.

Freedom of association and collective bargaining were generally respected. Labor unions asserted that solidarity associations set up and controlled permanent committees at many workplaces, which in turn conducted negotiations and established direct agreements. Labor unions also asserted that employers sometimes required membership in a solidarity association as a condition for employment. To the extent that solidarity associations and permanent committees

displaced trade unions, they affected the independence of workers' organizations from employers' influence and infringed on the right to organize and bargain collectively. In recent years the International Labor Organization (ILO) reported an expansion of direct agreements between employers and nonunionized workers and noted its concern that the number of collective bargaining agreements in the private sector continued to be low when compared with a high number of direct agreements with nonunionized workers. The Labor Ministry conducted seven working/mediation sessions to discuss complaints related to persecution against labor union activists during the first six months of the year.

There were some instances of employers firing employees who attempted to unionize. The Ministry of Labor reported seven complaints of antiunion discrimination from January to July. There were reports some employers also preferred to use "flexible," or short-term, contracts, making it difficult for workers to organize and collectively bargain. Migrant workers in agriculture frequently were hired on short-term contracts (five months) through intermediaries, faced antiunion discrimination and challenges in organizing, and were often more vulnerable to labor exploitation.

The ILO noted there were no trade unions operating in the country's export-processing zones and identified the zones as a hostile environment for organizing. Labor unions asserted that efforts by workers in export-processing zones to organize were met with illegal employment termination, threats, and intimidation and that some employers maintained blacklists of workers identified as activists.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits forced or compulsory labor in cases that involve movement of the victim. The law establishes criminal penalties for trafficking in persons crimes, including forced labor--when they involve movement--with sentences of between six and 10 years in prison. The penalty is increased to between eight and 16 years if the crime involves aggravating circumstances. The Trafficking in Persons Prosecutor's Unit reported four investigations of trafficking in persons during the first six months of the year, including two persons forced into domestic service. Two cases from previous years were still open; the third case, which involved two minor victims, was ready for indictment; and the fourth case, which involved five victims, one a minor, was still under investigation. Penalties were generally sufficient to deter violations.



Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The child and adolescence code prohibits labor of all children under the age of 15 without exceptions; it supersedes the minimum working age of 12 established in the labor code, which by year's end 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 children under the age of 18 from engaging in hazardous or unhealthy activities and specifies a list of hazardous occupations. The government generally enforced laws against child labor effectively in the formal sector but not in the informal sector.

Child labor occurred primarily in the informal economy, especially in the agricultural, commercial, and industrial sectors. 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 government's 2016 National Household Survey identified 30,369 working minors, representing 3.1 percent of the child population between the ages 5-17. Forced child labor reportedly occurred in some service sectors, such as construction, fishing, street vending, and domestic service, and some children were subject to commercial sexual exploitation (see section 6, Children).

While the Ministry of Labor is responsible for enforcing and taking administrative actions against possible violations of, or lack of compliance with, child labor laws, the Prosecutor's Office intervenes in cases regarding the worst forms of child labor. As with other labor laws, the authority to sanction employers for infractions lies solely with the judiciary, and the law requires labor inspectors to initiate legal cases with the judiciary after exhausting the administrative process. The amount of fines and fees is determined by the severity of the infraction and is based on an equation derived from the minimum wage. Penalties were generally sufficient to deter violations.

The government continued to implement programming to eliminate illegal child labor and the worst forms of child labor by providing individual assistance through visits, interviews, and inspections to schools and workplaces. In 2016 the Labor Ministry detected and removed from employment 420 minors, 100 under age 15, in hazardous jobs, referring them to government agencies for inclusion in social

programs. The ministry reported that in the overwhelming majority of cases employers received warnings, and in the 57 cases that involved minors under age 15 and adolescent workers, 10 employers failed to comply, of which seven were referred to a labor court from July 2016 to June 2017.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* and *List of Goods Produced by Child Labor or Forced Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The laws and regulations prohibit discrimination regarding race, color, sex, religion, political opinion, national origin or citizenship, social origin, disability, sexual orientation and/or gender identity, age, language, HIV-positive status, or other communicable diseases status. The new labor code prohibits discrimination based on age, ethnicity, gender, religion, race, sexual orientation, civil status, political opinion, nationality, social status, affiliation, disability, labor union membership, or economic situation. The government effectively enforced these laws and regulations, and penalties were sufficient to deter violations. The Labor Ministry reported 20 cases of discrimination from July 2016 to June 2017. The ministry began incorporating a gender-equality perspective into labor inspections to identify areas of vulnerability. The Labor Ministry reported conducting 171 inspections on gender equality as part of its Decent Work program during the first six months of the year.

Discrimination in employment and occupation occurred with respect to persons with disabilities and the LGBTI population. Discrimination against migrant workers occurred, and there were reports of instances of employers using threats of deportation to withhold their wages.

#### **e. Acceptable Conditions of Work**

The wage council of the Ministry of Labor sets the minimum wage scale for the public and private sectors twice a year. Monthly minimum wages for the private sector ranged from 178,703 colones (\$316) for domestic workers to 629,395 colones (\$1,114) for university graduates since January 1. According to INEC, in 2016 the poverty line was 105,937 colones (\$188) in urban areas and 81,685 colones (\$145) in rural areas. The national minimum wage applied to both Costa Rican and migrant workers. The law 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. Workers are entitled to one day of rest after six consecutive days of work, except in the agricultural sector, and annual paid vacations. The law provides that workers be paid for overtime work at a rate 50 percent above their stipulated wage or salary. Although there is no statutory prohibition against compulsory overtime, the labor code stipulates the workday may not exceed 12 hours, except in the agricultural sector when there is “imminent risk of harm...to the harvest” when work cannot be suspended and workers cannot be substituted.

The government maintains a dedicated authority to enforce occupational safety and health (OSH) standards. The Labor Ministry’s National Council of Occupational Health and Safety is a tripartite OSH regulatory authority with government, employer, and employee representation. According to labor organizations, the government did not enforce these standards effectively in either the formal or the informal sectors.

Workers can remove themselves from situations that endanger health or safety without jeopardizing their employment. According to the Labor Ministry, this is a responsibility shared by the employer and employee. The law assigns responsibility to the employer, including granting OSH officers access to workplaces, but it also authorizes workers to seek assistance from appropriate authorities (OSH or labor inspectors) for noncompliance with OSH workplace standards, including risks at work.

The Ministry of Labor’s Inspection Directorate (DNI) is responsible for labor inspection, in collaboration with the Social Security Agency and the National Insurance Institute. The DNI employed labor inspectors who investigated all types of labor violations, but the number of inspectors was not sufficient to enforce compliance. According to the Ministry of Labor, inspections occurred both in response to complaints and at the initiative of inspectors. The DNI stated it could visit any employer, formal or informal, and inspections are always unannounced.

The Labor Ministry generally addressed complaints by sending inspection teams to investigate and coordinate with each other on follow-up actions. As with other labor laws, inspectors cannot fine or sanction employers who do not comply with laws on acceptable conditions of work; rather, they investigate and refer noncompliance results to labor courts. The process of fining companies or compelling employers to pay back wages or overtime has traditionally been subject to lengthy delays, a problem the new procedural labor code seeks to address.

The Ministry of Labor generally enforced minimum wages effectively in the San Jose area but was not as effective in enforcing the minimum wage laws in rural areas, particularly where large numbers of migrants were employed, and in the large informal sector, which comprises 43 percent of employment. The ministry publicly recognized that many workers, including in the formal sector, received less than the minimum wage. During the first six months of the year, the ministry conducted 4,973 visits to priority cantons with low levels of development in an attempt to assess and address their situation through DNI intervention.

According to INEC, 44 percent of the economically active population in the nonagricultural sector was in the informal economy. The Ministry of Labor, through the National Program in Support of the Microenterprise, provided technical assistance and access to credit for informal microentrepreneurs to improve productive and labor conditions in the informal economy.

Observers expressed concern about exploitative working conditions in fisheries, small businesses, and agricultural activities. Unions also reported systematic violations of labor rights and provisions concerning working conditions, overtime, and wages in the export-processing zones. Labor unions reported overtime pay violations, such as nonpayment of wages and mandatory overtime, were common in the private sector and particularly in export-processing zones and agriculture. There were reports agricultural workers, particularly migrant laborers in the pineapple industry, worked in unsafe conditions, including exposure to hazardous chemicals without proper training. The national insurance company reported 63,608 cases of workplace-related illnesses and injuries and 68 workplace fatalities from January to June.