

# **COSTA RICA 2019 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 April 2018 voters elected Carlos Alvarado of the Citizen's Action Party (PAC) as president during a second round of elections. All elections were considered free and fair.

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 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. Civilian authorities maintained effective control over the security forces.

There were no reports of significant 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.

In February a judge ordered preventive pretrial measures against two uniformed police officers to prevent their flight while an investigation continued into the death of one minor and injury of another during a wave of vandalism related to a national protest in 2018.

#### **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, but there were isolated reports that government officials employed degrading practices. The government investigated, prosecuted, and punished police responsible for confirmed cases of abuse. Judicial authorities investigated five judicial investigative police agents who allegedly beat and threatened a robbery suspect in detention in Upala, Alajuela, on June 19.

### **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: As of July the prison population exceeded the designed capacity of prisons by 37 percent, according to official statistics. 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. Prison authorities reinforced security and implemented a zero-tolerance policy on corruption, effectively reducing illegal narcotics. The Ministry of Justice was responsible for the prison system, while the Immigration Office ran a migration facility in Heredia holding illegal migrants until they were deported or regularized their migration status.

The San Sebastian, Gerardo Rodriguez, La Reforma, San Rafael, San Carlos, Limon, Pococi, Puntarenas, Liberia, Perez Zeledon, and Cartago prisons, as well as the comprehensive care units (UAI) located in Alajuela, Perez Zeledon, and Pococi, 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 the prisoners in pretrial detention were held, 845 prisoners lived in unsanitary conditions in a facility with a planned capacity of 590. On July 29, a judge ordered that the UAI, inaugurated two years earlier in Alajuela, was overcrowded and could not receive more detainees. The UAI had a designed capacity for 704 prisoners but held 829. The judge further ordered the facility to take steps to reduce overcrowding.

Administration: Prisoners could submit credible allegations of mistreatment to the Ombudsman's Office, which investigated all complaints at an administrative level.

Independent Monitoring: The government permitted independent monitoring of prison conditions by international and local human rights observers. The Office of the UN High Commissioner for Refugees (UNHCR) monitored the migration detention facility, and the government ombudsman monitored all other detention centers, with UNHCR visiting monthly and the ombudsman preparing annual reports. In March a delegation of UN experts visited penitentiary centers.

#### **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 or her arrest or detention in court. The government generally observed these requirements.

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

The law requires issuance of judicial warrants before police may make an arrest, 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: Lengthy pretrial detention was a problem. According to the Ministry of Justice, as of July 31, persons in pretrial detention constituted approximately 22 percent of the prison population, compared with 23 percent in 2018. The average length of pretrial detention was 90 to 180 days. 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. The length of pretrial detention generally did not equal or exceed the maximum sentence for the alleged crime. The law establishes that preventive detention should be proportional to the sentence for the alleged crime, and authorities generally complied with that mandate.

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

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

#### **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. In practice, however, the legal system experienced significant delays in the adjudication of criminal cases and civil disputes and a growing workload.

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.

#### **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, including for the press. On August 9, the Constitutional Chamber of the Supreme Court rejected an effort from the association of journalists to restrict the practice of journalism through compulsory licensing of journalists.

Violence and Harassment: Police investigated an explosive device that on July 27 damaged the building of a news outlet. It was not clear if the perpetrator intended to target the news outlet, but indications as of October pointed to a deliberate attempt to suppress the outlet's operations.

#### **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.

#### **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.

**c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://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.

**e. Internally Displaced Persons**

Not applicable.

**f. 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 14 months and an additional 12 months for the appeals process.

The number of persons seeking asylum increased significantly. The Migration Authority handled a growing number of migrants requesting refugee status, with the majority from Nicaragua. According to the Migration Authority, from April 2018 to September 2019, more than 70,000 claims were either actively pending or pending an initial appointment to submit a claim, with an average of 2,000 new applications per month since the beginning of the year. As of August migration authorities reported receiving 22,639 asylum claims, of which 18,170 were Nicaraguans, 1,586 Venezuelans, 933 Salvadorans, 777 Colombians, and 589 Cubans, among others. The average time for resolving a pending asylum claim was 18 months from the submission of the asylum request.

As of August the Appeals Tribunal, which adjudicates all migration appeals, had a backlog of 295 asylum cases but stated these figures would increase as pending claims at first instance moved to the appeals process. 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 (which occurred in virtually all cases). The waiting period for a work permit was compounded by the months-long delay most asylum seekers faced in obtaining an appointment to file an asylum application, at which point the three-month period begins. Refugees and asylum seekers reported job opportunities were scarce. In the case of professionals, refugees and asylum seekers faced significant bureaucratic processes in obtaining a license to practice locally.

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, service providers failing to recognize the identification provided to asylum seekers by the Migration Authority, 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 eight months. Provisional refugee identity cards do not resemble other national identity documents, and although government authorities generally accepted them, many private citizens did not. Upon receiving refugee status, which typically took two years, refugees could obtain an identity document similar to those used by nationals at a cost of 39,000 colones (\$68), renewable every two years.

Refugees and asylum seekers reported that access to health services was difficult. They qualified for public health services only if they were minors, pregnant, or facing a life-threatening emergency, but some individuals reported being denied services even in emergency situations.

Displaced university students who had fled Nicaragua due to harassment for their political opposition activities reported difficulty registering for classes because Costa Rican institutions were inflexible in requiring academic records that they could not obtain from Nicaraguan authorities.

Durable Solutions: 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.

### **g. Stateless Persons**

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. 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 continued 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 April 2018 voters elected PAC's Carlos Alvarado 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 2018 legislative elections, the National Liberation Party (PLN) gained the most seats, but it did not achieve majority in the National Assembly. In internal legislative elections in May, PLN won the presidency of the National Assembly for one year in an alliance that included PAC and the Christian evangelical National Restoration Party.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

Women and persons of African descent were represented in government, but indigenous persons were not. In national elections, political parties must guarantee gender parity across their electoral slates and confirm 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: The investigations into the 2017 corruption and influence peddling case (known locally as “Cementazo”), related to loans and policies benefiting cement importer Juan Carlos Bolanos, continued. On August 12, a special committee of the National Assembly recommended the Solicitor’s Office reopen the investigations related to a report submitted to the National Assembly in 2018 exonerating former president Solis.

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 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 National 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 National Assembly with nonbinding recommendations. International institutions and nongovernmental organization observers recognized the Ombudsman's Office as an independent and effective instrument for promoting human rights.

A special committee of the National 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 effectively.

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.

Violence against women remained a serious problem, and as of August the government reported that nine women had been killed by a partner or spouse. The killing of a woman by her spouse garnered significant public attention, as the perpetrator stabbed the woman multiple times during a domestic dispute while two of her three children (ages five and 11) were present in the home. Authorities arrested the perpetrator. The government launched a public campaign in response to concern about gender-based violence.

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 or involuntary sterilization.

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 that women and men receive equal pay for equal work. The government enforced the laws effectively, although an official study reported a pay gap of 13 percent for highly skilled jobs. On March 18, the National Assembly approved an amendment to the women's equality law to establish pay equality between men and women in both the public and private sectors and to create an interagency commission for pay equality.

## **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, but there was no marked increase in the number of cases of child violence or abuse. Judicial authorities investigated the death of a five-year-old minor who died of internal bleeding caused by parental abuse on May 9. A few days prior, the staff of PANI received a complaint of mistreatment by his parents but did not respond adequately.

Early and Forced Marriage: The minimum legal age of marriage is 18. The law establishes penalties for sex with minors and prohibits 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.

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 country was a destination for child sex tourism.

Institutionalized Children: The Ombudsman's Office requested that PANI take immediate action to reduce overcrowding in shelters for children in government care, as shelters were 31 percent over capacity as of June.

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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The Jewish Zionist Center estimated there were between 3,000 and 3,500 Jews in the country. There were isolated reports of anti-Semitic comments on social media, in particular posts that questioned Israel's right to exist and posts featuring anti-Semitic stereotypes of the Jewish people, stating they controlled the economy, were accumulating excess wealth, and were practicing a new form of Nazism against Palestinians. In July a former presidential candidate made an anti-Semitic comment in a video against the Jewish owner of an online daily newspaper. Representatives from five political parties in the National Assembly and the editorial of a daily newspaper criticized the commentary.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

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

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. The Ombudsman's Office reported inadequate sidewalks and difficulties in access to public transportation as factors hindering the mobility of persons with disabilities. The government policy on

education and the national plan for higher education aimed to increase educational opportunities for students with disabilities. Children with disabilities were generally integrated in educational facilities serving children without 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 the 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. As of August the government had not appointed a new presidential commissioner for Afro-Descendant Affairs after the previous commissioner resigned in April.

### **Indigenous People**

Violence against indigenous people increased during the year. 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.

Amid violent land disputes between indigenous inhabitants and nonindigenous persons, in March two unknown assailants killed indigenous leader Sergio Rojas, who had fought for restoring indigenous lands. On May 20, a delegation from the Inter-American Commission on Human Rights met with President Carlos Alvarado, who had requested a formal meeting following Rojas's death. Since 2015 the commission had recommended the government provide protective measures to the Bribri and Teribe indigenous peoples, and the government indicated it would comply with the recommendations. The Ombudsman's Office increased its efforts to engage with indigenous communities in the wake of Rojas' murder. Law enforcement authorities were still looking for suspects as of October.

On August 9, the Ombudsman's Office reported concerns over access to potable water services in some indigenous communities and called on the government to meet security requirements in indigenous territories. During the year the government began a consultative process of a public policy for indigenous peoples

(2019-24) to protect their individual and collective rights. On August 8, the government signed a law to protect the right of nationality of the Ngabe cross-border indigenous persons and approved an executive order declaring of official interest the genealogy database, which is used to establish claims to the Broran (Terraba) territory.

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

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. Four executive orders and two directives provide for equal rights, including migration rights to same-sex couples and recognition of the right of sexual identity and gender for identification documents of foreign nationals; grant access to housing allowances for same-sex couples; and end the prohibition for public notaries to register same-sex marriages.

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) individuals experienced discrimination within their own families due to their sexual orientation, gender identity or expression, and sex characteristics. On May 17, President Alvarado signed two directives aimed at strengthening protections in public-sector employment for LGBTI populations. The commissioner for LGBTI issues also presented new regional commissions focused on fighting homophobia and discrimination based on sexual orientation.

### **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.

Labor discrimination towards HIV patients continued; some persons reported losing their jobs due to discrimination, their deteriorating health, or both, although the problem was not widespread. The government had not taken concrete steps to combat discrimination based on HIV/AIDS status despite having adopted a National Strategic Plan on HIV and AIDS (2016-21).

## **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. The government respected these rights. The law prohibits antiunion discrimination and provides for reinstatement of workers fired for union activity. Unions must register, and the law provides a deadline of 15 days for authorities to reply to a registration request. 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.

The labor code stipulates that at least 50 percent of the workers in an enterprise must vote to support a strike. The law, however, adds that even if there is no union at the enterprise or if the union lacks the support of 50 percent of the workforce, a strike may be initiated if 35 percent of the workers call for a vote, by secret ballot. The law restricts the right to strike for 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.

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 also requires that permanent committee members be elected freely by secret ballot without intervention of the employer.

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 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. 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. In May the Constitutional Chamber of the Supreme Court repealed sections of the collective bargaining agreement between the labor union (Sitrapequia) and the National Oil Refinery (Recope). The court's decision also ratified the ceiling of 12 years for severance pay when an employee is terminated.

The government effectively enforced applicable laws, and penalties were sufficient to deter violations. While the law establishes sanctions (fines and fees) for infractions, only the judiciary has the authority to apply such sanctions. The amount of fines and fees is determined by the severity of the infraction and is based on the minimum wage. The reformed labor code requires labor claims to be processed within two years and sets up a special summary procedure for discrimination claims. The reformed labor code also strengthens protections for labor union members, including protections against discrimination based on labor affiliation and special protections via special expedited proceedings. The Labor Ministry reported an increase in the number of fines collected and in the scheduling of hearings since the reformed labor code entered into force in 2018.

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.

In some instances employers fired employees who attempted to unionize. The Ministry of Labor reported 16 cases of firing a labor leader and 22 complaints of antiunion discrimination (dismissal of labor leader) 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 no trade unions operated 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 and criminalizes all forms of forced or compulsory labor. The government effectively enforced the law. The law establishes criminal penalties for trafficking in persons crimes that are proportional to the severity of the crimes and were sufficient to deter violations. In 2018 the Attorney General's Office reported two convictions of trafficking for labor exploitation involving two victims from Nicaragua and another from Guatemala.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

The child and adolescence code prohibits labor of all children younger than age 15 without exceptions, including the worst forms of child labor; it supersedes the minimum working age of 12 established in the labor code. 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 younger than age 18 from engaging in hazardous or unhealthy activities and specifies a list of hazardous occupations. The government generally enforced child labor laws 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. 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. The government effectively enforced the law. 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.

On June 12, the government announced that 500 working minors returned to schools after receiving conditional cash transfers through an agreement between the Labor Ministry and the Welfare Institute.

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 <https://www.dol.gov/agencies/ilab/resources/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 or gender identity, age, language, HIV-positive status, or other communicable diseases status. The 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 seven cases of discrimination from January to June. The ministry continued to implement a gender-equality perspective into labor inspections to identify areas of vulnerability.

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 were above the poverty line. 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 OSH standards are appropriate for the main industries in the country, according to the National Council of Occupational Safety and Health. The Labor Ministry’s National Council of Occupational Health and Safety is a tripartite OSH regulatory authority with government, employer, and employee representation. Penalties were sufficient to deter violations, although the government did not enforce these standards effectively in either the formal or the informal sectors.

Workers may 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 is responsible for labor inspection, in collaboration with the Social Security Agency and the National Insurance Institute. The directorate employed labor inspectors, who investigated all types of labor violations. The number of labor inspectors was insufficient to deter violations. According to the Ministry of Labor, inspections occurred both in response to complaints and at the initiative of inspectors. The directorate stated it could visit any employer, formal or informal, and inspections were 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.

The Ministry of Labor generally enforced minimum wages effectively in the San Jose area but less effectively in rural areas, particularly where large numbers of migrants were employed, and in the large informal sector, which comprised 46 percent of employment as of June. The ministry publicly recognized that many workers, including in the formal sector, received less than the minimum wage, mainly in the agricultural sector. The ministry implemented labor inspections with an emphasis on minimum wage and social security registration to improve the quality of life of workers. Penalties were sufficient to deter violations.

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 that agricultural workers, particularly migrant laborers in the pineapple industry, worked in unsafe conditions, including exposure to hazardous chemicals without proper training. In April a private pineapple-producing company located in Upala closed and dismissed its employees without paying wages, severance, or social security fees, although the Labor Ministry mediated between the employees and employers.