

# **COSTA RICA 2018 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. On April 1, voters elected Carlos Alvarado of the Citizen's Action Party (PAC) as president during a second round of elections. In legislative elections on February 4, the governing PAC formed a coalition to gain control of the presidency of the legislature for one year. All elections were 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. 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: As of July the prison population exceeded the designed capacity of prisons by 32 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. 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, 770 prisoners lived in unsanitary conditions in a facility with a planned capacity of 556.

In February the Judicial Investigative Organization (OIJ), the principal investigative law enforcement agency, recognized prison overcrowding as a problem. Overcrowding at the San Sebastian pretrial detention center resulted in some pretrial detainees being held in OIJ facilities.

On July 26, a new detention center for undocumented migrants in Los Lagos, Heredia, opened to replace a facility that had problems with overcrowding and poor ventilation.

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 13 deaths in closed regime centers as of August 21. Four of these deaths were homicides resulting from prisoner-on-prisoner violence.

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) and the government ombudsman monitored detention conditions, with UNHCR visiting monthly and the ombudsman preparing annual reports.

Improvements: In June the Ministry of Justice agreed to expedite urgent requests for prisoners to obtain an electronic bracelet monitor, which normally could take several months. The Ministry of Justice's Social Adaptation Division constructed a health unit at the Vilma Curling women's correctional center and opened health units at the correctional facilities in San Rafael de Alajuela, Perez Zeledon, and Pococi. The Social Adaptation Division strengthened telemedicine services at La Reforma, Gerardo Rodriguez, and Cartago prisons.

#### **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 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. There were no reports of impunity involving the 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: Lengthy pretrial detention was a problem. According to the Ministry of Justice, as of July 31, persons in pretrial detention constituted approximately 23 percent of the prison population, compared with 16 percent in 2017. 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 experienced 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.

### **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.

### **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 72 percent of the population used the internet in 2017.

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

The number of persons seeking asylum increased significantly. The Immigration Office handled a growing number of migrants requesting refugee status, the majority from Nicaragua. According to immigration authorities, from April to September, Nicaraguans filed 8,000 claims and authorities gave migrants more than 15,000 more appointments to file their requests, up from fewer than 100 applications from Nicaraguans in all of 2017. The government leased additional office space and opened a call center to process appointments and disseminate information better.

As of August the Appeals Tribunal, which adjudicates all migration appeals, had a backlog of 476 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 (which occurs in virtually all cases). On August 10, the Labor Ministry, the Chamber of Commerce, and UNHCR launched a program to assist asylum seekers and refugees to find jobs.

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 eight months. Provisional refugee ID cards do not resemble other national identity documents, so while government authorities generally accepted them, many private 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 39,000 colones (\$68), renewable every two years.

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. In partnership with UNHCR, on April 23, the government awarded “Living Integration” certifications to 20 public and private organizations to help refugees and asylum seekers earn a livelihood.

Temporary Protection: There were no programs for temporary protection beyond refugee status. Due to low recognition rates (approximately 8 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 Nicaragua, Venezuela, El Salvador, and Colombia; the majority were male adults and extended families.

### **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. 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. The National Civil Registry appointed a permanent officer in the regional offices of Coto Brus, Talamanca, and Tarrazu to provide follow-up services. From May 27 to June 3, authorities from Costa Rica and Panama collaborated to register citizens from the southern area of Punta Burica as part of the Chiriticos project. 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: On April 1, 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 legislative elections, the National Liberation Party (PLN) gained the most seats, but it did not achieve majority in the National Assembly. On May 1, the governing PAC formed a coalition with four other parties--the PLN, Social Christian Unity Party (PUSC), Broad Front, and Republican Social Christian Party--to gain control of the presidency of the legislature for one year. In 2016 municipal elections, PLN

and PUSC gained control of 62 of 81 municipalities. Observers considered the elections free and fair.

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 persons were not. On May 8, Epsy Campbell Barr became the country's first woman of African descent to be elected as vice president, and she served concurrently as minister of foreign affairs. In 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. As a result, female legislators held 26 of the 57 seats in the National Assembly.

#### **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 2017 authorities began investigating allegations of corruption and influence peddling in a case (known locally as “Cementazo”) related to loans and policies benefiting cement importer Juan Carlos Bolanos. The case prompted the dismissal and resignation of several justices and prosecutors. On July 16, Chief Justice Carlos Chinchilla requested his early retirement after the full Supreme Court suspended him, together with two associate justices and a substitute justice of the Criminal Appeals High Court, for inappropriate dismissal of the “Cementazo” case. On July 10, the Supreme Court also suspended former deputy attorney general Berenice Smith for inappropriate conduct. On April 10, the National Assembly removed Associate Justice Celso Gamboa from the bench by a majority vote for interfering with judicial cases related to the cement importer. In 2017 former attorney general Jorge Chavarria retired, following his suspension for requesting the Criminal Appeals High Court to dismiss the “Cementazo” case.

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.

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.

According to the Ombudsman's Office, during the first months of the year, the number of femicides increased in spite of the efforts of the government and civil society to fight this problem. The killing of two female tourists on August 4 caused authorities on August 7 to declare the reduction of violence against women as a "national priority" not only to raise awareness, but also to implement coordinated actions among public institutions in areas with a higher incidence of violence.

On July 2, President Alvarado enacted a restorative justice law but simultaneously asked the National Assembly to reform some of its provisions to prevent victims of sex crimes and domestic violence from negotiating with perpetrators and aggressors, after the attorney general and the minister of women's issues expressed their concern.

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 women and men receive equal pay for equal work.

## **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 reported violence against children and adolescents continued to be a concern, but there was no increase in the number of cases of child violence or abuse. The institute implemented a prevention strategy against child abuse during the year.

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

### **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. 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, however.

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 government policy on education and the national plan for higher education aim to increase educational opportunities 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. During the February national elections, the Organization of American States Observation Mission lauded the country for facilitating voting for seniors and persons with disabilities, including accessible voting booths and technological tools to promote participation in the electoral process.

### **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. On August 1, Vice President and Foreign Affairs Minister Campbell Barr appointed a presidential commissioner for Afro-Descendant Affairs.

### **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 March 6, the government finalized a consultative process in response to a mandate from International Labor Organization (ILO) Convention 169, requiring governments to engage with indigenous peoples on measures that directly affect them. The consultative mechanism consists of an eight-step process for gathering input from indigenous communities, from project inception through final monitoring. The mechanism recognizes the duty of the government to obtain prior and informed consent for large-scale development projects affecting indigenous communities but does not give them veto power. The executive order authorizing the consultative mechanism was issued in March, but as of October it had not yet been carried out.

## **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. On May 17, President Alvarado appointed a lesbian, gay, bisexual, transgender, and intersex (LGBTI) commissioner in charge of coordinating efforts between civil society and the presidency to promote LGBTI issues.

Transgender individuals faced barriers to legal gender recognition until, on June 28, President Alvarado signed an executive order that instructed all public entities to modify records of transgender individuals who requested the change.

There were cases of discrimination against persons based on sexual orientation, ranging from employment, police abuse, and education to access to health-care services. LGBTI individuals experienced discrimination within their own families due to their sexual orientation, gender identity or expression, and sex characteristics. LGBTI organizations operated freely and lobbied for legal reforms. Reports of discrimination and violence against the LGBTI community increased after the Inter-American Court of Human Rights publication of its advisory opinion on same-sex marriage, which was issued one month before the first round of national elections. By February the LGBTI community reported 32 cases of physical and verbal abuse, and several legislators and political leaders expressed their opposition to the Inter-American Court of Human Rights opinion and its implementation.

### **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.

## **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, if there is no union at the enterprise or if the union lacks the support of 50 percent of the workforce, a strike can still be initiated if 35 percent of the workers call for a vote, under a 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.

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. 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, a 2017 reform to the 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 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. In 2017 the government also approved three regulations related to the labor code on labor dispute resolution, union workers voting to authorize strikes, and determining union membership to bargain collectively. The Labor Inspection Office implemented related actions to the labor code during the first six months of the year, including a new organizational structure, training for staff, and systematization of processes.

Labor unions reported that improved protections for union organizing during the first year of the reformed labor code facilitated recruitment of members in the private sector. The new expedited labor courts forced private-sector employers to reinstate workers who had been dismissed for joining unions.

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 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 one case of firing a labor leader and three 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 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 forced or compulsory labor. The law establishes criminal penalties for trafficking in persons crimes, including forced or compulsory labor with sentences of between six and 10 years in prison. The penalty increases to between eight and 16 years if the crime involves aggravating circumstances. These penalties are proportional to the severity of the crimes and were sufficient to deter violations. On May 8, the government adopted amendments to Articles 172 and 189 (bis) of the criminal code to align the law’s definition of trafficking more closely with international law by removing the requirement of movement. In 2017 the Attorney General’s Office made two accusations of trafficking for forced labor exploitation and reported two convictions for labor exploitation.

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, 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 under the age of 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. 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 2017 the Labor Ministry provided protection to 434 working minors referred by different departments within the Labor Ministry and other government agencies. Of these 434 cases, 313 received a scholarship through an agreement between the Labor Ministry and the Welfare Institute, intended to help students stay or return to school. During the first six months of the year, the Labor Ministry reported 25 minors working in dangerous activities--17 in agriculture and eight working more than six hours a day. The ministry removed the minors from their jobs and gave them a study allowance to return to school.

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 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 13 cases of discrimination from January to June. The ministry implemented a gender-equality perspective into labor inspections to identify areas of vulnerability. The Labor Ministry detected 23 infractions 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 183,939 colones (\$322) for domestic workers to 644,689 colones (\$1,130) for university graduates since January 1. According to INEC, in 2016 the poverty line was 107,769 colones (\$189) in urban areas and 82,950 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 OSH standards are appropriate for the main industries in the country, per 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. 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. The number of labor inspectors, 87, was likely insufficient for the size of the workforce, which included more than two million workers. According to the ILO's technical advice of a ratio approaching one inspector for every 15,000 workers in industrializing economies, the country should employ approximately 150 inspectors. 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 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 44 percent of employment as of August. The ministry publicly recognized that many workers, including in the formal sector, received less than the minimum wage.

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 that agricultural workers, particularly migrant laborers in the pineapple industry, worked in unsafe conditions, including exposure to hazardous chemicals without proper training. Early in the year, workers from a private pineapple-producing company organized a labor strike urging their employer to comply with basic labor laws, including paying minimum wage and recognizing their right to unionize.