

**Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report –
Universal Periodic Review:**

COSTA RICA

I. BACKGROUND INFORMATION

Costa Rica acceded to the *1951 Convention relating to the Status of Refugees* (hereinafter referred to as the *1951 Convention*) and its *1967 Protocol* in 1978. Moreover, Costa Rica ratified the *1954 Convention relating to the Status of Stateless Persons* (“1954 Convention”) and acceded to the *1961 Convention on the Reduction of Statelessness* in 1977 (“1961 Convention”).

Historically, Costa Rica has been a host country to asylum-seekers. As of December 2012, Costa Rica hosts the second largest refugee population in Latin America. In the last 13 years, approximately 12,500 refugees from 42 different countries have been recognized by the Costa Rican authorities. The vast majority of this population originated from Colombia (80 per cent). In recent times, the asylum requests made by Central American nationals, such as Hondurans, Guatemalans and El Salvadorans have significantly increased. The refugee population is largely concentrated in urban areas where competition for scarce resources is high.

Costa Rica has progressively reviewed its legal framework on the protection of refugees. A new Immigration Act entered into force on 1 March 2010, which is in line with international refugee protection standards. The Act modified the system for refugee status determination, as it created several new bodies:

- i. A Refugee Unit in charge of receiving and assessing asylum claims; became operational as of 26 February 2010;
- ii. The Commission of Visas and Refugees, the new decision-making body for asylum claims, comprising three representatives from the Ministries of Labour, Foreign Affairs and Public Security. It is also in charge of processing the first instance appeal for refugee status determination, which started functioning in July 2010; and
- iii. The Administrative Migratory Tribunal, a second instance appeal for every request address to the immigration authorities, which includes asylum claims.

The Costa Rican authorities have undertaken significant efforts to improve the quality of the RSD procedures, with the support of UNHCR, specifically in the framework of the regional Quality Assurance Initiative to upgrade the efficiency of the system. The main challenge remains the reduction of the processing times of the asylum claims.

The achievement of sustainable local integration as a durable solution for refugees remains an issue in Costa Rica, despite important initiatives by the authorities, civil society and UNHCR in this respect. Refugees in urban settings encounter particular difficulties in finding stable employment and housing. Furthermore, local integration efforts are hampered by discrimination against refugees who are perceived as a security threat by a segment of the population. About half of the refugee population considered discrimination to be an obstacle in their integration process.

In 2012, 40% of refugees were unemployed, and out of those who were working, 80% were engaged in the informal sector. Moreover, only 3% had access to university studies in Costa Rica and 7% to technical training. 20% of the refugee population had expired ID documents, and due to current legislation in place that includes fees to revalidate their ID documents, were facing difficulties in renewing these documents.¹

II. ACHIEVEMENTS AND BEST PRACTICES

New Immigration Act and Refugee regulations

The 2010 Immigration Act includes the principle of *non-refoulement* and incorporated gender-based persecution as a specific ground for recognition of refugee status. It also provides for humanitarian considerations of special categories of persons to be granted asylum (stateless persons and victims of trafficking) and other humanitarian visas (Art. 94). In November 2011, and with UNHCR's participation, Costa Rica adopted the Refugee Regulations to the Immigration Act (Executive Decree No. 36.831-G of November 2011). These regulations (art. 54) for the first time provide the right to work for asylum-seekers, while awaiting a resolution on their asylum claim.

Smuggling and Trafficking Legislation

In February 2013, the Law against Smuggling of Migrants and the Trafficking in Persons was enacted. This Law established the National Coalition against the Smuggling of Migrants and Human Trafficking by amending the 2010 Immigration Act, which authorized the provision of temporary visas to assist victims of human trafficking.² UNHCR actively participates in the Coalition, as well as in the Emergency Response Team for the identification and assistance of victims of trafficking.

Pledges made during the December 2011 Ministerial Event

Costa Rica made several pledges during the Ministerial Intergovernmental Event on Refugees and Stateless Persons held in Geneva in December 2011, vowing to strengthen the RSD procedure; to improve the quality and access to documentation issued for asylum-seekers and refugees; promote the local integration of refugees in an urban context; adopt a statelessness determination procedure; ensure a differentiated approach for the protection of refugees with

¹ This is based on a participatory assessment undertaken with refugees and asylum-seekers by UNHCR in conjunction with the Costa Rica University.

² Committee on the Elimination of Discrimination Against Women, 2 August 2011, Concluding observations, para. 22, available at: <http://www.refworld.org/docid/4eeb4e922.html>

special needs and promote a comprehensive approach in the context of mixed migration flows.³ As a result of a process led by the Ministry of Foreign Affairs, the statelessness determination procedure is at an advanced stage and is expected to be adopted by December 2013. This new procedure will undoubtedly reinforce the legal framework for the protection of stateless persons.

Improvements in administrative detention conditions

Costa Rica has made significant efforts towards developing alternatives to the administrative detention of undocumented migrants. The length of administrative detention has also been reduced. As part of the human rights based approach adopted by Costa Rica, the treatment of undocumented persons in detention was enhanced and training provided to the migration police to allow for the proper identification and referral of women with specific protection needs, including victims of human trafficking. However, in the context of mixed migration flows more efforts are needed to ensure the prompt identification of persons who may be in need of international protection.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Strengthening of the refugee status determination (RSD) process

The implementation of the Quality Assurance Initiative will require efforts to reduce the significant delay in the processing of asylum claims. The refugee regulations (Art. 54) establish that the first instance decision on an asylum claim must be issued within a period of three months.

At present, the Refugee Unit is taking 12 to 14 months to issue a first instance resolution; while decisions at the second instance appeal organ, the Administrative Tribunal, are suffering delays of 5 up to 7 years. UNHCR has constantly raised its concern about the long duration of decision-making, particularly at the appeal stages. An increasing backlog of at least 1700 cases is pending resolution at the Refugee Unit or at the Tribunal level. Additional staff is urgently needed to reinforce the processing capacity of both instances.

In August 2011, the Committee on the Rights of the Child recommended that Costa Rica, “*Expediently adopt and implement regulations relating to the refugee status.*”⁴ In 2008, the Committee against Torture (CAT) stated that there were “[...] *continued excessive delays in determination of refugee status.*”⁵ CAT recommended that the Government of Costa Rica should “[...] *take the necessary steps, in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), to speed up the processes of determination of refugee status.*”⁶

³ UN High Commissioner for Refugees, Ministerial Intergovernmental Event on Refugees and Stateless Persons - Pledges 2011, October 2012, pages 64 and 65 available at: <http://www.unhcr.org/refworld/docid/50aca6112.html>

⁴ Committee on the Rights of the Child, 3 August 2011, Concluding observations, para. 82, available at: <http://uhri.ohchr.org/Document/File/c3d9c9f7-d3b7-4102-8324-76b2bde6afa1/d125dbb5-b916-43c2-a60a-a192cfcb4101>

⁵ Committee against Torture, 7 July 2008, Concluding observations, para. 8, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/428/93/PDF/G0842893.pdf?OpenElement>

⁶ *Id.*

Recommendations:

UNHCR recommends that the Government of Costa Rica:

- Enhance the effectiveness of the RSD procedures through the continuation of the Quality Assurance Initiative;
- Increase the level of human resources at the Refugee Unit and the Tribunal to allow for the elimination of the backlog of pending asylum claims; and
- Reduce the time frames for decision-making at all stages of the RSD procedure; delay currently observed in the determination of refugee status.

Issue 2: Local integration of refugees and refugee documentation

Local integration remains a major challenge for the refugee population. Currently, local integration programmes have prioritized livelihoods and self-reliance. However, these efforts are often hampered by the lack of public awareness about the situation of refugees and the rising discrimination and xenophobia against Colombians, who are sometimes perceived as a security threat. This problem was addressed by both the Committee against Torture and the Human Rights Committee.⁷

A recent participatory assessment carried out by UNHCR measuring levels of local integration among adult refugees and asylum-seekers, once more highlighted the problems refugees have to find stable employment. UNHCR addressed these gaps by engaging with its government counterparts and the private sector to enhance labour integration opportunities for refugees and asylum-seekers.⁸ In practice, there is a widespread lack of knowledge about the rights of refugees and their documentation, which jeopardizes their effective access to employment, education and health care.⁹ Costa Rica pledged in 2011 to promote refugees' local integration in urban areas in particular through access to work, health, education, housing, justice, culture, and community participation.¹⁰

The new Immigration Act establishes the cost for a refugee identification card at 98 US\$. It is the first time ever that refugees have to pay for their documentation. Refugees must first enrol in the social security system, and pay a fee of 35 US\$ before paying the cost of the refugee documentation (98 US\$). Such mandatory fees are prescribed by the Immigration Act (Art. 7), Refugee Regulations (Art. 58) and Legislation to Enrol in Social Security (Art. 78 *Reglamento de Seguro de Salud* No. 7082 of 1997). There is currently a reform project initiated by civil

⁷ See the concluding observations of the Committee against Torture, 40th Session, 7 July 2008, paragraph 9 at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/428/93/PDF/G0842893.pdf?OpenElement> and of the Human Rights Committee, 91st session, 16 November 2007, paragraph 13, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/453/53/PDF/G0745353.pdf?OpenElement>

⁸ The office also undertook a number of outreach activities with the participation and the support of the Migration Office to join forces with private companies to foster and facilitate job placement for refugees.

⁹ A series of agreements were negotiated during the reporting period and will be completed in 2013. These agreements focus both on the recognition of academic diplomas, access to training and further education in the host country, and job placement agreements.

¹⁰ Pledges 2011, Ministerial Intergovernmental Event on Refugees and Stateless Persons, available at: <http://www.unhcr.org/commemorations/Pledges2011-preview-compilation-analysis.pdf>

society actors promoting a reform to the current Immigration Act in order to abolish this mandatory enrolment to the social security system, as it increases the documentation costs for both migrants and refugees.

The Committee of the Rights of the Child (CRC) expressed its concern about the fees associated with processing identification documents and recommended “[...] *exempting refugees from fees for identification documents or reducing such fees, and provide unaccompanied children with identity documents.*”¹¹

Recommendations:

UNHCR recommends that the Government of Costa Rica:

- Continue to undertake steps to facilitate the local integration of refugees;
- Raise awareness in order to prevent and combat discrimination and xenophobia vis-à-vis asylum-seekers and refugees;
- Ensure that refugees and other persons of concern to UNHCR are not deprived from identification documents owing to the fees and other administrative requirements that may hinder the local integration process of refugees.

Issue 3: Detention of persons in need of international protection

Despite efforts taken to reduce the length of detention and promote the use of alternatives to detention, further action is required.

The detention of asylum-seekers and refugees should normally be avoided and be a measure of last resort. Alternatives to detention should be sought and given preference, in particular for certain categories of vulnerable persons. If detained, asylum-seekers should be entitled to minimum procedural guarantees, including the possibility to contact and be contacted by UNHCR. *UNHCR’s Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention* highlight that “the position of asylum-seekers may differ fundamentally from that of ordinary migrants in that they may not be in a position to comply with the legal formalities for entry. They may, for example, be unable to obtain the necessary documentation in advance of their flight because of their fear of persecution and/or the urgency of their departure. These factors, as well as the fact that asylum-seekers have often experienced traumatic experiences, need to be taken into account in determining any restrictions on freedom of movement based on illegal entry or presence.”¹²

Interpreters need to be identified to allow for effective communication with detainees who do not speak Spanish. Additional efforts should be made to improve the material conditions of the detention facility, a dark prison-like structure that does not provide adequate facilities for men and women to spend time outside their cells in separated areas.

¹¹ *Id.* at para. 82.

¹² UN High Commissioner for Refugees, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://www.unhcr.org/refworld/docid/503489533b8.html>

The Committee against Torture (CAT) expressed its concern about “[...] *the failure to limit the length of administrative detention of aliens.*”¹³ The Committee noted that “*the conditions in the centres for immigrants remain a matter for concern, especially as regards overcrowding and the lack of procedures or machinery for identifying victims of trafficking in persons and others who are entitled to international protection (arts. 2, 3 and 11).*”¹⁴ The Committee stated that “*The State party should ensure that legislation provides for alternatives to custody for migrants. The State party should also set a maximum legal period for detention pending deportation, which should in no circumstances be indefinite.*”¹⁵ Furthermore, the Committee invited the State party “[...] *to continue its efforts to improve detention conditions for all immigrants, in cases where administrative detention is absolutely necessary, in accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Minimum Rules for the Treatment of Prisoners.*”¹⁶

Recommendations:

UNHCR recommends that the Government of Costa Rica:

- Continue to develop alternatives to detention and ensure that detention of asylum-seekers is used as a last resort, and where necessary;
- Ensure that judicial safeguards are in place to prevent arbitrary detention and to ensure that detention is carried out under conditions prescribed by the Law; and
- Secure the assistance of an interpreter for detainees who do not speak Spanish.

Issue 4: Trafficking of persons

Refugees and asylum-seekers are particularly at risk of falling victim to trafficking or smuggling due to the vulnerable and volatile situations they often face. The social situation of asylum-seekers and refugees and the absence of special programs to facilitate their local integration in the country make refugees, particularly refugee women, especially vulnerable to human trafficking for sexual exploitation.

The Government should take into account the fact that victims or potential victims of human trafficking who are at risk of persecution, if returned to their countries of origin, may qualify as refugees within the meaning of the *1951 Convention relating to the Status of Refugees*.¹⁷

The Law against Smuggling of Migrants and the Trafficking in Persons enacted in February 2013 needs to be complemented with a prompt adoption of regulations for its adequate implementation to reinforce the identification and assistance of victims of trafficking. A proper referral system to the refugee status determination procedure should be established through the regulations to ensure that the victim’s right to seek and be granted asylum is fully respected.

¹³ Committee against Torture at para. 10.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ UNHCR Guidelines on International Protection No.7: “The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked”, 7 April 2006, available at: <http://www.unhcr.org/443b626b2.html>

Additionally, specialized programs and policies to protect and support victims who cannot return to their countries of origin should be adopted, all protection safeguards that need to be duly considered within regulations.

Recommendations:

UNHCR recommends that the Government of Costa Rica:

- Enactment of regulations to the Law to reinforce the identification and assistance of victims of trafficking incorporating protection safeguards for those who may be in need of international protection; and
- Establish within the regulations a referral mechanism for victims of trafficking to enable them to apply for asylum, whenever appropriate.

Issue 5: Birth registration, the prevention of statelessness and the protection of stateless persons

Costa Rica is a State party to both the 1954 and the 1961 Statelessness Conventions. According to its legislation on nationality, both *jus soli* and *jus sanguinis* are the bases for acquisition of Costa Rican nationality. UNHCR is however concerned about the difficulties of indigenous children born to Panamanian parents in the southern border region, to obtain birth certificates. This group of children is referred as “*Chiriticos*”.

Birth registration is fundamental to the prevention of statelessness. Failure to document a person’s legal existence can prevent the effective enjoyment of a range of human rights, including access to education and health care. Because birth registration legally establishes the place of birth, proof of age, and parental affiliation, it serves as important documentary proof to acquire the parents’ nationality or the nationality of the State in which the child is born. It also provides children with a degree of protection against child labour, illegal adoption, early marriage, sexual exploitation, and trafficking.¹⁸ The Human Rights Council adopted a resolution on birth registration and the right of everyone to recognition everywhere as a person before the law, calling upon “*States to ensure free birth registration, including free or low-fee late birth registration, by means of universal, accessible, simple, expeditious and effective registration procedures without discrimination of any kind.*”¹⁹

In 2011, the Committee on the Rights of the Child acknowledged the efforts of the State to implement a comprehensive birth registration system, but recommended that the Government “*intensify its efforts to ensure that all indigenous and migrant children are registered at birth and provided with personal documents enabling them to access social services, ... and by educating parents on the need to register their children.*”²⁰ The Committee also recommended “[...] *that the State party consider concluding bilateral agreements with neighbouring States,*

¹⁸ UN High Commissioner for Refugees, *Birth Registration: A Topic Proposed for an Executive Committee Conclusion on International Protection*, 9 February 2010, EC/61/SC/CRP.5, para. 2, available at: <http://www.unhcr.org/refworld/docid/4b97a3242.html>.

¹⁹ UN Human Rights Council Resolution A/HRC/RES/19/9, 3 April 2012, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/19/9.

²⁰ *Id.*

with a view to granting dual citizenship to migrant children.”²¹ Since the Committee’s recommendations, efforts have been underway to improve the birth registration system, but further work is needed to improve registration rates for children from indigenous groups, notably the Ngöbe-Bugle from Panama.

In order to promote the naturalization for refugees and stateless persons, UNHCR plans to conclude a cooperation agreement with the Electoral Supreme Tribunal/Civil Registry Office which has three components: the promotion of naturalization for refugees; access to nationality for stateless persons; and training on nationality legislation, international refugee law and international provisions related to statelessness.

Finally, as pledged in 2011, Costa Rica is developing a determination procedure to identify stateless persons in its territory. Creation of such procedure would improve implementation of the 1954 Convention relating to the Status of Stateless Persons and ensure that the small number of stateless persons present in Costa Rica is afforded adequate protection.

Recommendations:

UNHCR recommends that the Government of Costa Rica:

- Adopt and implement a statelessness determination procedure to identify stateless persons within its territory; and
- Intensify efforts to improve the birth registration rates for children coming from indigenous groups, among other vulnerable groups.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
September 2013**

²¹ *Id.*

ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies

- Universal Periodic Review:

Costa Rica

We would like to bring your attention to the following excerpts, taken directly from UN Human Rights Treaty Body Concluding Observations and Recommendations relating to issues of interest and persons of concern to UNHCR with regards to Costa Rica.

Committee on the Elimination of Discrimination against Women

CEDAW/C/CRI/CO/5-6, 49th Session

29 July 2011

Trafficking and exploitation of prostitution

22. While noting the State party's initiatives to address the issue of trafficking in women and girls and its transnational nature, including by establishing a National Coalition against the Smuggling of Migrants and Human Trafficking and by amending the Migration Act (2010) to authorize the provision for temporary visas to victims of human trafficking, the Committee is concerned at the lack of human and financial resources to adequately combat the phenomena of trafficking and exploitation of prostitution and to offer shelter and basic services to victims. The Committee is further concerned at the lack of statistics on the number of women and girls who are victims of trafficking for sexual commercial exploitation and at the low numbers of cases investigated, prosecuted and the low rate of convictions.

23. The Committee urges the State party to:

- (a) Strengthen its efforts in anti-trafficking initiatives with a view to addressing fully and comprehensively the complexities of the phenomena of trafficking in women and girls and exploitation of prostitution;**
- (b) Consider adopting a Law on Trafficking which fully complies with article 6 of the Convention;**
- (c) Ensure systematic monitoring and periodic evaluation, including the collection and analysis of data on trafficking and exploitation of women in prostitution, and to include such data in its next periodic report;**
- (d) Increase its efforts at international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through information exchange and to harmonize legal procedures aiming at the prosecution and punishment of traffickers.**

Employment

28. The Committee welcomes the measures aimed at closing the gender gap in the labour market, including the inspection of companies to ensure that employed women are receiving the

minimum wage. However, the Committee expresses its concern at the unequal working conditions of women in both the formal and informal sectors of the economy, including domestic workers, the persistence of occupational segregation and the concentration of women in low-paid jobs, wage disparities between women and men in both public and private sectors, and the limited availability of childcare services. The Committee is concerned that the New Immigration Act does not adequately covers the problems of migrant and refugee women in the labour market. It regrets the lack of concrete information regarding measures taken to analyse, prevent and follow up the possible negative impact of the Central American Free Trade Agreement (CAFTA) for women employed in the formal sector.

29. The Committee urges the State party to take all the necessary steps to ensure better implementation of its labour legislation, to address pay gaps and to encourage women to take up employment in non-traditional fields. It encourages the State party to take measures in order to provide affordable and accessible childcare services to enable women to balance their work and family responsibilities. The Committee also urges the State party to strengthen its efforts to ensure adequate protection of migrant and refugee women, regarding work permits and work opportunities. The Committee reiterates its request to the State party to include in its next periodic report information on the results of activities aimed at neutralizing the negative effects of free-trade agreements on female employment and the quality of life of women. The Committee also invites the State party to ratify the ILO Domestic Workers Convention (No. 189).

Disadvantaged groups of women

36. The Committee takes note of the adoption of the Paid Domestic Work Act (2009) and also of measures taken to address the situation of women migrant domestic workers, in particular Nicaraguans in the State party. However, it regrets the lack of information regarding the extent of protection provided by the Paid Domestic Work Act and other relevant legislation to women migrant domestic workers.

37. The Committee recommends that the State party conduct a review of the legal protection afforded to women migrant domestic workers under the Paid Domestic Work Act and other relevant legislation and to include the results of such review in its next periodic report. It encourages the State party to establish a mechanism for monitoring the implementation of the Paid Domestic Work Act. It further recommends that the State party take measures to protect women migrant domestic workers, prevent activities of illegal employment agencies, and ensure that women are provided with adequate information on safe migration before departure, and conclude bilateral agreements with receiving countries.

Committee on the Rights of the Child

CRC/C/CRI/CO/4, 57th Session

17 June 2011

Allocation of resources

16. While welcoming the constitutional increase of financial resources for education, the Executive Decree to coordinate all resources allocated to the social sectors under the Joint Institute on Social Aid (IMAS), and the fact that the National Child Welfare Agency (PANI) was

exempted from recent budget cuts affecting all public institutions, the Committee remains concerned that the continued lack of an adequate and stable budget for all public institutions dealing with the comprehensive promotion and protection of child rights, both at the national and local levels, may undermine their effectiveness.

17. The Committee recommends that the State party ensure a stable and sufficient budget for the National Policy on Children and Adolescents, its Action Plan and the coordination system chaired by PANI enabling them to meet their goals and targets. In line with the recommendations resulting from its day of general discussion on “Resources for the rights of the child - responsibility of States” (2007), the Committee encourages the State party to:

a) Increase the level of social investment for the promotion and protection of child rights, ensuring the expansion and equitable allocation to disadvantaged regions and groups and addressing gender and ethnic disparities;

b) Utilize a child rights’ approach in the elaboration of the State budget by implementing a tracking system for the allocation and the use of resources for children throughout the budget, thus providing visibility to the investment on children and enabling monitoring and evaluation;

c) When possible, implement the UN recommendation to start budgeting-by-results to monitor and assess the effectiveness of resource allocation;

d) Continue protecting children’s and social budgets from any external or internal instability, such as situations of economic crisis, natural disasters or other emergencies, in order to maintain the sustainability of investments;

e) Define strategic budgetary lines for those situations that may require affirmative social measures, such as birth registration, especially with regard to indigenous and migrant children;

f) Ensure proper accountability by municipal and national authorities in an open and transparent way that enables participation by communities and children in budget formulation and monitoring, as appropriate; and

g) Seek technical assistance from UNICEF and other international organizations, as appropriate.

Data collection

18. The Committee takes note of the current efforts by the State party to strengthen its Statistical Information System on the Rights of Children and Adolescents (SIEDNA), with a view to obtaining disaggregated statistical data on all areas covered by the Convention, and the establishment of an Observatory for analysis, in cooperation with civil society. However, it regrets the lack in the State party’s report of disaggregated data on the implementation of children’s rights with particular attention to children at risk, such as children with disabilities, indigenous children and children affected by migration.

19. The Committee encourages the State party, with the support of its partners, to strengthen the National System for the Comprehensive Protection of the rights of children and adolescents (SNPI) and related activities in order to track and assess progress achieved in the realization of child rights, in collaboration with the National Institute of Statistics and Census (INEC), and to design policies and programmes to implement the Convention. The State party should ensure that data is disaggregated by age, sex, geographical location,

nationality, education and socio-economic background to facilitate analysis of the situation of all children.

Non-discrimination

29. The Committee remains concerned about continued discriminatory attitudes and prejudices against indigenous children, children of African descent, Nicaraguan and other migrant children. The Committee also remains concerned about growing disparities affecting indigenous children with regard to access to health care (child mortality being twice as high as the national average) and to education (illiteracy being six times higher than the national average), especially in rural and coastal areas. While welcoming the new Migration Act, the Committee regrets that the State party has decided not to ratify the International Convention on the Rights of All Migrant Workers and Members of their Families.

30. The Committee recommends that the State party:

- a) Strengthen its efforts to eliminate societal discrimination and prejudice against indigenous, Afro-descendant, migrant children and children with disabilities through legislative measures, awareness raising programmes, the media and the educational system, as well as in-service training for public officials;**
- b) Adopt a comprehensive action plan for indigenous children, including targeted programmes and investment in services and infrastructure in indigenous territories and rural and deprived urban areas in order to improve the socio-economic situation of indigenous and other minority children, taking into account the Committee's general comment No. 11 (2009) on indigenous children and their rights under the Convention; and**
- c) Inform children who are affected by societal discrimination and prejudice about their rights under the Convention.**

Respect for the views of the child

33. The Committee notes with concern that the views and special linguistic requirements of children and adolescents are not adequately taken into account in judicial and administrative decision-making processes, including at the municipal level and within the local Protection Boards established by the Children and Adolescents Code.

34. In light of its general comment No. 12 (2009) on the right of the child to be heard, the Committee reiterates its recommendation that the State party:

- a) Strengthen the opportunities for children and adolescents, including girls, to freely express their views in all matters affecting them, especially at the local government level;**
- b) Ensure that their views are taken into account in any judicial and administrative decisions affecting them; and**
- c) Take into consideration the special requirements and linguistic needs of children with disabilities, indigenous and migrant children, and other children in situations of vulnerability.**

Birth registration

35. While acknowledging the efforts undertaken by the State party to implement a comprehensive birth registration system, through visits by mobile units of the civil registry to indigenous and remote areas and through a system of assistant registrars at hospitals and health centres, the Committee notes with concern that indigenous children and children of seasonal

workers from Nicaragua and from the Ngöbe-Bugle indigenous group from Panama are in some cases not registered, especially when they are born on farms or plantations or when their parents are unaware of the need to register them for obtaining personal documents.

36. The Committee recommends that the State party intensify its efforts to ensure that all indigenous and migrant children are registered at birth and provided with personal documents enabling them to access social services, by ensuring that pregnant indigenous as well as migrant women, including those who are undocumented or in an irregular situation, have adequate access to hospitals and health centres, and by educating parents on the need to register their children. The Committee also recommends that the State party consider concluding bilateral agreements with neighbouring States, with a view to granting dual citizenship to migrant children.

Health and health services

57. While welcoming the continuing decrease in infant and child mortality as well as malnutrition rates, the Committee is concerned about the persistence of disparities resulting in high infant mortality among indigenous and other minority children due to, *inter alia*, preventable diseases. It notes with satisfaction the State party's plan to expand the network of Care and Integral Development (*Red de Cuido y Desarrollo Integral*) to all cantons. However, the Committee is concerned about the low coverage of primary health care services for young children and mothers in rural and coastal areas and about reports that medical attention is sometimes effectively denied to indigenous and migrant children due to excessive charges and lack of personal identity documents.

58. The Committee recommends that the State:

- a) Review its centralized system of health care and ensure affordable access to basic health care for all children, particularly indigenous and migrant children, including those without personal identity documents, while giving priority to regions and communities with the lowest coverage, with a view to redressing the existing sharp inequalities;**
- b) Allocate adequate technical and financial resources to the *Red de Cuido y Desarrollo Integral* in order to reach universal coverage of health care services, as planned; and**
- c) Harmonize the methodology for calculating the infant mortality rate in accordance with international standards.**

Education

69. The Committee notes with concern that native language and intercultural education for indigenous children is scarcely offered in primary schools and only in the indigenous territories, that the number of lessons is insufficient, and that there are no education materials in indigenous languages.

70. The Committee recommends that the State party:

- a) Reinforce bilingual and intercultural education models for indigenous children by, among others, increasing the number of school teachers in the indigenous territories;**
- b) Expand the coverage and number of lessons on indigenous language and culture, including at the pre-school and secondary levels;**
- c) Develop specific training programmes and improve the conditions for teachers of such classes in and outside the sub-systems for indigenous education, in cooperation with public universities and in accordance with the specific cultural needs of indigenous children;**

- d) Make available textbooks and child-friendly education materials in indigenous languages; and**
- e) Include education on indigenous cultures in the national school curriculum, with a view to promoting respect for diversity and eliminating prejudice against indigenous children.**

Trafficking

77. The Committee notes the State party's efforts to combat trafficking in persons and assist victims of this crime, including children, by raising awareness and training public officials on trafficking offenses; establishing a National Coalition against illegal smuggling of migrants and trafficking in persons which prepared a National Action Plan on trafficking that was incorporated in the National Development Plan (2006-2010); creating an immediate response team to provide rapid responses for trafficking victims within 24 hours; and amending the Migration Act to allow for temporary residence status of migrants who are victims of trafficking. However, in line with its 2007 recommendations on the State party report under the Optional Protocol on the Sale of Children, Child Prostitution and Pornography, the Committee notes with concern that:

- a) Trafficking in children for purposes of forced labour and sexual exploitation, particularly in the sex tourism industry, continues to be a serious problem in the State party;
- b) The absence of criminal law provisions specifically criminalizing trafficking in children;
- c) The insufficient access to the asylum procedure for victims of trafficking; the low conviction rate and lenient sentencing policy;
- d) The limited impact of training for law enforcement officers on the identification of trafficking cases and the application of criminal law provisions;
- e) The State party's reliance on NGOs to provide specialized assistance to and the lack of shelters for child victims of trafficking;
- f) The lack of public awareness about the unlawful nature of trafficking in women and children; and
- g) The lack of pro-active efforts by the State party to reduce the demand for sexual exploitation and forced labour of children or to identify trafficking victims among children in vulnerable situations.

78. The Committee recommends that the State party:

- a) Criminalize all forms of trafficking in children, including cases not involving movement, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;**
- b) Ensure that cases of trafficking in children, including internal trafficking, are effectively investigated and prosecuted and that sentences commensurate with the seriousness of those acts are imposed on perpetrators;**
- c) Strengthen efforts to train law enforcement officers on the identification of trafficking cases and on the strict application of relevant criminal law provisions;**
- d) Facilitate access to justice and provide compensation for child victims of trafficking, and ensure their referral to the asylum procedure;**
- e) Enhance victim protection and assistance, by establishing shelters specifically designed for trafficking victims, including children, funding for NGOs providing specialized care to child victims of trafficking, and assistance to reintegrate victims into their communities;**

- f) Raise public awareness about the causes and consequences, the unlawful nature, and the need to report acts of child trafficking and sex acts with children, including through the internet; and**
- g) Establish a comprehensive and reliable national data collection system to ensure systematic monitoring and evaluation of systems, services, programmes and outcomes based on indicators aligned with universal standards and adjusted for and guided by locally established goals and objectives, and maintain a registry on cases of trafficking in children.**

Asylum seeking and refugee children

81. The Committee notes that the State party hosts the second largest refugee population in Latin America. It is concerned that due to delays in the adoption of regulations to implement the new Migration Act, the waiting period for the refugee status determination is too long, gender as a ground of persecution is not fully taken into account in the determination of refugee status in accordance with the new Migration Law and relevant UNHCR guidelines, and that there are obstacles in the family reunification process, including with regard to the issuance of visas. The Committee is also concerned that refugees are no longer exempted from the high fees for processing identification documents (refugee cards) and that unaccompanied children are not provided with such documents.

82. The Committee recommends that the State party:

- a) Expediently adopt and implement regulations relating to the refugee status determination;**
- b) Ensure that gender as a ground of persecution is taken into account in the refugee status determination;**
- c) Benefit from UNHCR training for its Commission of Visa and Refugees, and make proper use of the UNHCR Guidelines on child asylum claims; and**
- d) Consider exempting refugees from fees for identification documents or reducing such fees, and provide unaccompanied children with identity documents.**

Committee against Torture

CAT/C/CRI/CO/2, 40th Session

7 July 2008

Non-return

7. The Committee notes with concern that the Migration Bill makes no mention of a right to appeal against the decisions of the Visa and Refugee Commission. The Committee is also concerned at the power which the Migration Bill grants to immigration officials to reject illegal immigrants within a radius of 50 kilometres from the border (with no administrative remedy against such decisions), a power which could affect the principle of *non-refoulement* laid down in article 3 of the Convention, as well as the protection of victims of trafficking (art. 3).

7. The State party should take steps to ensure that, in the context of migration management, a proper analysis can be conducted of the situation in each case and the situation in the countries from which the “immigrants” come, so as to guarantee respect for the principle of *non-refoulement*. These steps should include appropriate continuing training of migration officials.

Situation of applicants for refugee status

8. The Committee expresses concern at continued excessive delays in determination of refugee status.

8. The State party should take the necessary steps, in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), to speed up the processes of determination of refugee status.

9. The Committee expresses concern at the statements made by senior officials linking the rise in crime in the country with the presence of refugees, as the Human Rights Committee has already done (CCPR/C/CRI/CO/5).

9. The State party should ensure that its officials refrain from making statements which could encourage the stigmatization of refugees and applicants for refugee status.

Detention of non-citizens

10. The Committee expresses concern at the failure to limit the length of administrative detention of aliens. The Committee takes note of the efforts made by the State party to improve conditions in the Detention Centre for aliens, and the plans to modernize the regional offices and border posts so as to provide suitable conditions for immigrants. However, the conditions in the centres for immigrants remain a matter for concern, especially as regards overcrowding and the lack of procedures or machinery for identifying victims of trafficking in persons and others who are entitled to international protection (arts. 2, 3 and 11).

10. The State party should ensure that legislation provides for alternatives to custody for migrants. The State party should also set a maximum legal period for detention pending deportation, which should in no circumstances be indefinite.

10. The Committee invites the State party to continue its efforts to improve detention conditions for all immigrants, in cases where administrative detention is absolutely necessary, in accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Minimum Rules for the Treatment of Prisoners.

10. The Committee recommends the adoption of protocols and the provision of proper training for border officials and personnel working in centres for the administrative detention of aliens for the identification of victims of trafficking and others who are entitled to international protection.

III-treatment and abuse of authority

11. The Committee takes note of the efforts made by the State party to address cases of abuse of authority by border guards and prison staff, including specific recommendations that officials should avoid actions or omissions which violate rights. However, the Committee remains concerned at cases of abuse of immigrants and citizens, especially on the grounds of their sexual orientation and/or transsexual identity. The Committee considers that, in particular, the rules on public morals can grant the police and judges discretionary power which, combined with prejudices and discriminatory attitudes, can lead to abuse against this group (arts. 2, 11 and 16).

11. Through training and awareness creation among those concerned, the State party should foster a policy of respect for human rights for all without discrimination. The State

party should take steps to ensure continuous monitoring and periodic evaluation of the impact of the training and awareness creation provided for police officers, border guards and prison personnel.

Trafficking in persons

22. The Committee takes note of the efforts made by the State party to combat trafficking in persons, including the executive decree in 2005 establishing the national coalition to combat illegal smuggling of immigrants and trafficking in persons and the Institutional Protocol for Care for Victims of Trafficking drafted by the National Children's Trust (PANI). However, the Committee expresses concern at the fact that trafficking in persons is not an offence in domestic legislation (art. 16).

22. The State party should criminalize trafficking in persons in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime.

Human Rights Committee

CCPR/C/CRI/CO/5, 91st session

16 November 2007

7. The Committee notes with concern that the names of almost 9,000 Colombian refugees were unduly disclosed by the Costa Rican authorities to the Colombian authorities (arts. 2 and 13).

The State party should take steps to ensure full respect for the principle of confidentiality of the personal files of asylum-seekers and refugees.

13. The Committee notes with concern the statements made by the authorities of the State party in the press stigmatizing Colombians in general, and Colombian refugees in particular, by linking them to the rising crime rate in Costa Rica (arts. 2, 20 and 26).

The State party should ensure that public officials refrain from making xenophobic public statements that stigmatize or stereotype foreigners.