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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

COSTA RICA*

**Information provided by the Government of COSTA RICA
on the implementation of the concluding observations of the
Human Rights Committee (CCPR/C/CRI/CO/5)***

[1 May 2009]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Paragraph 9. The Committee is concerned about overcrowding and poor conditions in the detention centres of the State party, including those administered by the migration authorities (article 10 of the Convention).

The State party should take steps to end overcrowding in detention centres, including those administered by the migration authorities, and to ensure compliance with the requirements of article 10. In particular, the State party should take into consideration the Standard Minimum Rules for the Treatment of Prisoners.

1. In 2008, the Costa Rican Migration and Aliens Office, the body responsible for migration affairs, drafted a manual of operational guidelines and procedures for temporary detention centres for foreigners without legal status. This document has the following aims:

(a) To establish an organizational structure to ensure fluidity of communications and facilitate inter- and intra-institutional coordination;

(b) To harmonize the procedures, activities and responsibilities involved in the operation of temporary detention centres for foreigners without legal status;

(c) To establish control mechanisms to ensure transparency of the different activities and procedures that are in turn developed at the temporary detention centres for foreigners without legal status;

(d) To identify the possible risks that may arise in the operation of specific centres and in the treatment of the detained population;

(e) To establish coordination and communication mechanisms to ensure the process of investigating the migratory situation of detained foreigners and the implementation of deportation procedures run smoothly, including injunctions, notifications or repatriation, as appropriate;

(f) To guarantee the respect of the human rights of the migrant population in administrative detention;

(g) To ensure victims are protected against offences such as trafficking in persons and smuggling of migrants and refugee claimants;

(h) To establish the conditions that must be prevalent in the temporary detention centres for foreigners without legal status.

2. The manual establishes rules to avoid situations where more persons detained for breaches of migration rules are being housed in an authorized centre or compound than the number of properly equipped spaces should allow.

3. The main guiding principles of these rules include the right to equality and non-discrimination; to life and protection of personal integrity; to minimum detention periods; to due process; to information and communication; to individual treatment for every migrant; to respect for the family unit and to prohibition of torture and other cruel, inhuman and degrading treatment; to seek refugee status; and to application of the principle of non-refoulement.

Paragraph 12. While acknowledging the State party's efforts to combat trafficking in women and children and sexual exploitation, such as surveillance systems and alliances with private-sector actors, including hoteliers and taxi networks, the Committee notes with concern the lack of public awareness of the unlawful nature of such phenomena. It also regrets that it has not received clear-cut information regarding the alleged trafficking of children from Ecuador in 2004. The Committee is concerned that such acts may go unpunished (arts. 2 and 24).

The State party should reinforce measures to combat trafficking of women and children and, in particular:

(a) Ensure that penalties commensurate with the seriousness of the acts are imposed on anyone engaging in such exploitation;

(b) Continue its efforts to generate public awareness of the unlawful nature of the sexual exploitation of women and children;

(c) Provide training courses for the competent authorities;

(d) Protect victims so that they may find refuge and testify against those charged in criminal or civil cases, and award them compensation.

4. The first steps towards combating trafficking in persons were taken in 1998, when a special prosecutor's office for sexual offences was created. There is now also a specialized unit for trafficking offences within the judiciary.

5. In October 2002, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Act 8315) was ratified, supplementing the United Nations Convention against Transitional Organized Crime. In March 2002, the Protocol against the Smuggling of Migrants by Land, Sea and Air (Act 8314) was ratified, also supplementing the Convention.

6. In November 2005, the National Coalition Against Smuggling of Migrants and Trafficking in Persons was created. The Coalition comprises the Ministries of Education; the Interior, Police and Public Security; Justice and Pardons; Health; Labour and Social Security; and Foreign Affairs and Worship. It also comprises the Costa Rican Social Security Fund, the National Institute for Women, the National Children's Trust, the Office of the Ombudsman, and the National Commission for the Improvement of the Administration of the Judiciary. Other public and private organizations may contribute to the work of the Commission in their respective areas of expertise.

7. In early 2007, the State of Costa Rica approved amendments to its national legislation, or more precisely to its Family Code, which strictly prohibited the marriage of persons under the age of 15 years.

8. The Migration and Aliens Office has implemented an entry and exit system for minors in order to collect information on adults who accompany minors. This institution also maintains a close relationship with national and international security bodies in order to agree actions on combating such unlawful acts.

9. Costa Rica is experiencing increased growth in its tourist sector, which has triggered the creation of a planned, responsible and, above all, sustainable tourist policy. The Costa Rican Tourism Institute has established a series of clear standards in its regulations governing tourist accommodation enterprises which aim to prevent children and adolescents from becoming victims of any form of exploitation.
10. The Ministry of the Interior, Police and Public Security, together with the Migration and Aliens Office, have established protocols for handling the mass cases of migrant trafficking in order to protect victims of trafficking and smuggling, providing them with transfer, shelter and food, in accordance with the international guideline on human rights.
11. Costa Rica signed the Protocol for the Repatriation of Children and Adolescent Victims of Trafficking and, with the support of UNICEF, the United States Department of State Bureau of Population, Refugees and Migration (PRM) and IOM, respective protocols have been drawn up as part of the regional guidelines to promote multilateral coordination in priority areas.
12. There is in place a Strategic Plan of Action that includes initiatives of various governmental and non-governmental organizations to deal with trafficking in persons and smuggling of migrants. This is a five-year plan and has the following areas of intervention:
 - (a) Promotion and prevention;
 - (b) Care of victims;
 - (c) Defence and pursuit of justice.
13. The intention is to develop promotional and preventative measures through training, awareness-raising and dissemination of information in order to bring this issue to the fore among governmental officials and the general public and thus strengthen prevention, protection and the care of victims involved in trafficking in persons.
14. An inter-institutional care model is being promoted, developed in compliance with the established guideline to ensure the full exercise of human rights by the victims and the penalization of traffickers.
15. The aim is to create a policy framework to prevent, investigate and penalize trafficking in persons and fully protect the victims and witnesses of this offence.
16. Perhaps the most significant achievement has been to include the issue of combating trafficking in persons in the Costa Rican National Development Plan, making trafficking one of the Government's priorities and commitments to its citizens.
17. The current Migration Act provides for a sentence of two to six years for the legal concept of smuggling of persons. There is no current provision for the concept of trafficking but the draft amendment of the Migration Act provides a sentence of 10 to 16 years of prison. This bill is currently before the Legislative Assembly and its approval is expected soon. The move will ensure that the country fulfils its commitments vis-à-vis international treaties and conventions by providing adequate national legislation. Under the Coalition framework work is under way to unite efforts and coordinate measures to secure the detention of organized crime groups.

18. The State of Costa Rica has taken the following measures with regard to awareness-raising among the general public and the training of the competent authorities.

National Coalition Against Smuggling of Migrants and Trafficking in Persons, Pursuit of Justice Subcommittee

19. The following proposals have been drafted and channelled to the corresponding legislative committees:

(a) A proposed article to classify the offence of Trafficking of Persons, encompassing both internal and external trafficking, to be included in the text of Bill 16973 on the Comprehensive Strengthening of Public Security;

(b) Proposal to be contained in Bill 16973 on the Protection of Victims and Witnesses in connection with trafficking in persons (approved in first debate);

(c) Proposal on the status of a victim of trafficking in persons and a specific article on the smuggling of migrants to be included in the text of the Migration Bill.

Care Subcommittee

20. The following measures have been taken:

(a) Creation of a care model for victims of trafficking: the model tries to clarify the optimal mechanisms for the care of a victim of trafficking, generating comprehensive inter-institutional protocols and providing for the gender perspective in accordance with the mandate on human rights;

(b) Immediate Response Team: in parallel with the construction of this model, an Immediate Response Team for Situations of Trafficking of Persons (decree under construction) was created to solve, to some extent, the lack of care and protection in these situations.

21. It should be noted that the coalition carries out mass awareness-raising campaigns on the theme of trafficking and smuggling of persons; the last was coordinated by the United Nations International Children's Emergency Fund (UNICEF).

National Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents

22. The National Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents (CONACOES) was created in 1996 and has been operating as a special commission since 2000 of the National Council on Children and Adolescents (CNNA), a body that coordinates policies aimed at this age group.

23. The implementation and follow up of the Action Plan is the responsibility of the institutions that serve the National Commission through intersectoral, inter-institutional and interdisciplinary coordination in order to combat the commercial sexual exploitation of children and adolescents in a comprehensive and coherent manner.

24. The 2008-2010 National Plan for Eliminating the Commercial Exploitation of Children and Adolescents reflects the consensual approach of the CONACOES towards the actions that the State of Costa Rica has to carry out in a limited period in order to increase its effectiveness both in promoting, preventing and monitoring the problem and in protecting and defending the rights of the victims.

25. The stated purpose of the Plan is to establish the necessary guidelines on increasing the effectiveness of State action in the sphere of prevention, monitoring and control of the commercial exploitation of children and adolescents, and in the defence and protection of the rights of the victims.

26. This was unanimously approved by the Government at its fifty-fourth cabinet meeting on 18 July 2007, which ordered its inclusion in the National Development Plan 2006-2010, and by the National Council on Children and Adolescents (CNNA) through a formal agreement adopted in plenary on 25 October 2007.

27. Its activities are financed by the State institutions of Costa Rica.

28. There are guidelines on protecting the rights of minors who are victims of commercial sexual exploitation, which is carried out through operational programmes and inter-institutional and intersectoral coordination and executed by the CONACOES at national, regional and local level.

29. The following training has been conducted in the border area of Peña Blancas:

(a) In August 2008, officials of the border-crossing post of Peña Blancas participated in training given by the International Organization for Migration (IOM);

(b) On 28 and 29 January 2009, the Costa Rica-Nicaragua Bi-national Workshop took place, coordinated by the National Coalition Against Smuggling of Migrants and Trafficking in Persons together with the Paniamor Foundation and Save the Children Sweden, which generated a fourth study of the geographic and social mapping of trafficking in children and adolescents in Costa Rica. Previous studies aimed to improve the identification of cases of trafficking, their geographic location, the factors facilitating their occurrence and the main internal and external trafficking routes. This information will later be used to develop prevention and combat strategies for the area and to permit operations to be carried out in the border area blind spots;

(c) During February, a Workshop for officials of the Regional Police Headquarters, Heads of Regional Offices and key officials of the Migration Police will take place to present the 2005-2007 mapping meta-analysis carried out by the Paniamor Foundation and to determine the follow-up actions aimed at eliminating the commercial sexual exploitation of children and adolescents;

(d) In 2008, 15 officials of the internal services of the Ministry of Foreign Affairs and Worship received training on the issue of trafficking and a workshop via Internet is being organized to train the overseas Costa Rican consular body.

30. It is also important to note that the Defence Subcommittee of the National Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents has developed three training programmes which will be held during 2009 and will be aimed at tourism police and migration officials, with coverage to include the Peñas Blancas area.

31. With regard to point (d), it should be emphasized that on 3 February 2009 the Legislative Assembly approved in first debate the Bill on the Protection of Victims and Witnesses. The initiative has the fundamental aims of strengthening the legal powers of victims and increasing the authority of the judges involved in criminal proceedings against offenders. Similarly, impunity is also reduced.

32. A draft reform of the Criminal Code would also raise prison sentences for anyone committing the offence of trafficking of persons.
