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COMMITTEE ON ECONOMIC, SOCIAL  
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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
IN ACCORDANCE WITH ARTICLE 16 OF THE INTERNATIONAL  
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**REPLIES BY THE GOVERNMENT OF COSTA RICA TO THE LIST OF  
ISSUES (E/C.12/CRI/Q/4) TO BE TAKEN UP IN CONNECTION WITH  
THE CONSIDERATION OF THE COMBINED SECOND, THIRD AND  
FOURTH PERIODIC REPORTS OF COSTA RICA CONCERNING THE  
RIGHTS REFERRED TO IN ARTICLES 1-15 OF THE INTERNATIONAL  
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS  
(E/C.12/CRI/4)**

[25 September 2007]

## I. GENERAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED

***Question 1. Please provide additional and updated information on the measures - legislative or otherwise - that the State party has adopted to implement the suggestions and recommendations contained in the Committee's Concluding Observations on Costa Rica's previous periodic report.***

1. In view of the fact that the concluding observations of the Committee on Economic, Social and Cultural Rights concerning Costa Rica's initial report highlighted the excessively legalistic character of the report and expressed a desire for additional information on the practical implementation and effective exercise of the economic, social and cultural rights provided for in the Covenant, the main focus of the second, third and fourth periodic report submitted to the Committee on 5 May 2006 is on the practical measures taken by the State since 1990, as may be seen in the body of the document. In addition - and no less importantly - it mentions a number of legislative and regulatory measures that have served to expand and strengthen the rights base in Costa Rica. In the light of that situation, the State has endeavoured to reinforce its structure and meet requirements that are even higher than those set forth in the Covenant.

2. To lay the groundwork for the process of drafting the report to the Committee, in which the second, third and fourth periodic reports were combined, a preparatory framework was put in place to ensure that the real situation in the country, including the legal aspects, was described as accurately as possible, with an emphasis on the practical measures and implementation carried out by the State of Costa Rica. To that end, three bodies were set up - the Coordinating Unit, the Inter-institutional Committee and the Advisory Commission on Human Rights - to serve as the three mechanisms for drafting the report. Accordingly, an Executive Decree was issued (No. 32334-RE of 18 May 2004, published in *La Gaceta* No. 86 of 5 May 2005) to ensure a conscientious and serious drafting process that would meet the requirements of reliability, objectivity and accuracy needed by the Committee when examining compliance by States.

3. Moreover, an effort was made in setting up the system to develop institutional practices that are more clear and responsive to human rights requirements, especially obligations in regard to economic, social and cultural rights. This approach was taken with the aim of initiating State processes to enable an in-depth review of national systems of human rights compliance, and to enable the State to provide population groups with a formal framework for meeting and monitoring standards from a less bureaucratic and more effective and practical approach.

4. It should also be pointed out that the process of drafting the report included dialogue with civil society groups and international organizations, with the aim of producing a balanced document that would highlight achievements, progress, weaknesses, challenges and future prospects for the State in applying the Covenant. The report was also examined by experts in different fields relating to economic, social and cultural rights, especially those with some knowledge of the real situation in which vulnerable groups live. The report was enriched by their valuable input.

**Question 2. In view of the fact that Article 7 of the State party's Constitution accords the Covenant a higher priority and precedence over domestic legislation, please provide examples of case law invoking the Covenant.**

5. The Constitutional Chamber of the Supreme Court of Justice is the highest judicial body with regard to protecting and guaranteeing human rights in Costa Rica. Article 48 of the Political Constitution provides that: “Everyone shall have the right to bring habeas corpus proceedings to protect his personal freedom and integrity, and to bring amparo proceedings to maintain or re-establish his enjoyment of the other rights embodied in this Constitution and of the fundamental rights recognized in the international human rights instruments in force in the Republic. Both these remedies shall be within the jurisdiction of the Chamber referred to in article 10.”<sup>1</sup>

6. The Court's rulings are thus binding *erga omnes*. It should be noted that amparo and habeas corpus proceedings are widely accessible, informal and expeditious, and that the Court's jurisprudence thus has a marked impact on the Costa Rican legal system. What is more, the Constitutional Chamber has ruled that where an international human rights treaty provides for greater protection or more extensive rights, that instrument shall take precedence over the Costa Rican Constitution itself.

7. Since its establishment in 1989, the Constitutional Court has developed an extensive body of case law, thus contributing to the practical implementation of the principles laid down in international human rights instruments. The three examples of the jurisprudence of the Constitutional Chamber given below refer to the relevance and application of the rights laid down in the International Covenant on Economic, Social and Cultural Rights.

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<sup>1</sup> Article 10 of the Constitution provides as follows:

*“ARTICLE 10. A specialized Chamber of the Supreme Court of Justice shall declare, by the absolute majority vote of its members, the unconstitutionality of provisions of any nature and acts subject to Public Law. The jurisdictional acts of the Judicial Branch, the declaration of the elections by the Supreme Electoral Tribunal and any other acts established by law cannot be challenged following this procedure.*

*This Chamber shall also:*

*(a) Solve any conflicts of jurisdiction between State branches, including the Supreme Electoral Tribunal, as well as any other entities or bodies established by law;*

*(b) Hear any consultations on constitutional amendment bills, ratification of international agreements or treaties and other bills, as provided by law.”*

**Examples of jurisprudence: Constitutional Chamber of the Supreme Court of Justice****1. Ruling No. 2007-04473, handed down on 28 March 2007 at 5.35 p.m.**

*“[...] IV. Alongside these considerations, it is necessary to elaborate on the situation described in the amparo action, given the increase in recent years in the number of disputes on the issue of noise, mainly that caused by entertainment facilities, either in the form of background music or live shows. Noise has been treated as a public health issue at the international level. An expert task force established by the World Health Organization (WHO) formulated Guidelines for community noise in London in 1999 (<http://www.cepis.ops-oms.org/bvsci/e/fulltext/ruido/ruido2.pdf>). Noise is defined as an unwanted sound; the main sources are identified in the guidelines as road, rail and air traffic, construction and public works, and the neighbourhood. Neighbourhood noise includes that from restaurants, cafeterias, discotheques, live or recorded music, sporting events, playgrounds, car parks and domestic animals. This type of noise is inadequately regulated. WHO emphasizes that unlike other types of pollution, noise pollution continues to grow unsustainably, with adverse effects on health, and highlights seven specific effects: hearing impairment; disturbance of sleep; psychophysiological, mental-health and performance effects and effects on behaviour; as well as cumulative effects of noise from different sources. In the case of sleep disturbance in particular - caused by establishments that stay open late at night - the Guidelines explain that uninterrupted sleep is a prerequisite for good physiological and mental functioning. Primary sleep disturbance effects are: difficulty in falling asleep; awakenings; alterations of sleep depth; increased blood pressure and heart rate; increased pulse; vasoconstriction; changes in respiration; cardiac arrhythmia; and an increase in body movements. Secondary effects, which can be measured the following day, include reduced perceived sleep quality; increased fatigue; depressed mood; and decreased performance. Accordingly, the complaint submitted by the complainant and additional parties should be considered not only in relation to the right to privacy, but also as it relates to the right to health.*

*V. The right to health, derived from articles 21 and 73 of our Constitution, is also regulated in international law, both as a purely health-related issue and in the context of the environment. As the former, it appears in the 1988 Protocol of San Salvador to the American Convention on Human Rights (‘everyone shall have the right to health, understood to mean the enjoyment of the highest level of physical, mental and social well-being’, article 10, paragraph 1), **the International Covenant on Economic, Social and Cultural Rights (‘The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health’, article 12, paragraph 1)**, and the Universal Declaration of Human Rights (‘Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family’, article 25, paragraph 1). References to the right to health in an environmental context include the principles laid down in the 1972 Stockholm Declaration adopted by the United Nations Conference on the Human Environment (‘Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn*

*responsibility to protect and improve the environment for present and future generations’, Principle 1) and in the Rio Declaration on Environment and Development adopted by the United Nations Conference on Environment and Development in 1992 (‘Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature’, Principle 1). [...]*”

(Emphasis added.)

**2. Ruling No. 2007-004562, handed down on 10 April 2007 at 3.10 p.m.**

“[...] III. *The Chamber’s jurisprudence on the subject of the right to life - and its corollary, the right to health - is clear and consistent, and there are numerous applicable decisions that might be cited. Suffice it to mention only one decision, in view of its particular relevance to this case:*

*‘Throughout the ages, doctrine and philosophy have held the right to life as the greatest good, which should be protected by law, and have ranked it first among human rights, and rightly so, since without it all the other rights are useless. This is why it should enjoy special protection in the legal system. In Costa Rica, article 21 of the Constitution states that human life is inviolable; the right of every citizen to health is derived from this principle, and it is ultimately the State which is responsible for safeguarding public health and preventing violations of the right to health ...’ (ruling No. 5130-9, handed down on 7 September 1994 at 5.33 p.m.).*

*Not only the Political Constitution, but also international instruments ratified by Costa Rica confirm the primacy of the right to life and health as a person’s highest values, and require that the State protect them. These include article 3 of the Universal Declaration of Human Rights, article 4 of the American Convention on Human Rights, article 1 of the American Declaration of the Rights and Duties of Man and **article 6 of the International Covenant on Civil and Political Rights. The International Covenant on Economic, Social and Cultural Rights stipulates as follows:***

*‘Article 12*

- 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*
- 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:*

*[...]*

*(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;*

*(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.’*

*Not only the relevance of the rights for which the parties claim protection should be absolutely clear from the foregoing, but also the extent of the commitment undertaken by the State of Costa Rica to defend them unquestionably and unconditionally.”*

(Emphasis added.)

### **3. Ruling No. 2007-05289, handed down on 20 April 2007 at 8.46 a.m.**

*“[...] This Chamber has ruled that ‘excessive workload is not an argument justifying the right to obtain prompt resolution guaranteed by articles 27 and 41 of the Political Constitution, given that the public administration is obliged to handle citizens’ applications within statutory and reasonable time limits. Moreover, important humanitarian considerations are at issue in this specific case, given that it involves guaranteeing the timely payment and enjoyment of pensions’. It also stated that ‘an excessive caseload of pending files, due to shortcomings in the system or its employees, does not constitute a valid argument for evading the administration’s responsibility, since to do so would imply gratuitously shifting the burden of the State to citizens, who are entitled to demand that the guarantees laid down in abstract provisions be effectively translated into practice’ (ruling 550-98, handed down on 3 February 1998 at 4.45 p.m.). This Chamber considers that enough time has elapsed since then for the State to have taken the necessary steps to ensure that the problem is definitively resolved, given that this is an emergency situation. Due consideration should be given to the fact that retirees have devoted their working lives to the State and to society as a whole, and therefore deserve to be decently treated by the system. Apart from the substantive aspects, the right to a pension is a fundamental right: ‘in our legal system, the right to a pension has its legal basis in the following provisions, read together: articles 50, 73 and 74 of the Political Constitution, as well as articles 25, 28, 29 and 30 of the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), articles XI and XVI of the [American] Declaration of the Rights and Duties of Man, articles 22 and 25 of the Universal Declaration of Human Rights; article 31 of the Inter-American Charter of Social Guarantees, article 5 of the ILO Equality of Treatment (Social Security) Convention, 1962 (No. 118), and article 9 of the **International Covenant on Economic, Social and Cultural Rights**, which, in accordance with articles 7 and 48 of the Political Constitution, are embodied in constitutional law on fundamental rights. The Constitutional Chamber has recognized the existence of the right to a pension as a fundamental right of human beings, which should be recognized for all workers, on an equal footing and without any discrimination whatsoever. This is an entitlement derived from the performance of work, consisting in part of the worker’s contributions’ (ruling No. 2005-10380, handed down on 10 August 2005 at 2.49 p.m.). In taking on these international commitments, the State of Costa Rica undertook to recognize this right, and the situation of arrears in respect of pensioners’ applications is thus a glaring failure to meet the State’s obligations in regard to pensioners, whose right to a decent, healthy and peaceful life is thus curtailed. In view of the foregoing, the Court finds that the action for amparo should be upheld, and accordingly does so.”*

(Emphasis added.)

***Question 3. Please indicate to what extent the Covenant is incorporated in the State party's economic policies and practices on economic development and to what extent the Covenant is taken into consideration in the State party's bilateral and multilateral trade policies.***

8. It is important to point out that the trade and economic policies pursued by Costa Rica take account of aspects such as poverty reduction, employment generation, reduction of unemployment, and education and training in specific areas which meet the requirements laid down in the Covenant in regard to the relevant rights.<sup>2</sup>

9. Although the Covenant is not explicitly mentioned, it is an instrument that is embodied in the spirit in which economic and trade policy measures are implemented.

10. It should be borne in mind that specific use has been made of the application of the Covenant in trade policy, since in 2005, reports had to be submitted to both the Ministry of Foreign Trade and, subsequently, the European Union, on compliance with various human rights instruments, including the Covenant, which points to the link that exists between trade policy and observance of human rights.

11. Moreover, as is clear from the National Development Plan, both economic policy and trade policy are imbued with a holistic vision of the country, in which all aspects are interlinked. Accordingly, human rights treaties are seen as parameters in the design of national policies, especially economic and trade policies, as these are viewed as instruments in an overall national policy to ensure the population's well-being. In other words, these policies are tools both for generating and for distributing wealth, and thus human rights standards are already implicit in the key objectives of development policies and practices in Costa Rica.

***Question 4. Please provide information on initiatives taken by the State party in accordance with the resolution of the Office of the National Control of Propaganda to combat discrimination against minority races and ethnic groups, and in particular, against black women.***

12. The National Office for the Control of Advertising, which is a department of the Ministry of the Interior, supervises commercial advertisements to ensure that they are not offensive to dignity or family decency or do not contain indecent portrayals of women. Such supervision includes mechanisms for receiving complaints from the public against advertisements that are offensive to dignity; complaints may be submitted in writing or by telephone, and should indicate the media in which the advertisement was published and the reasons for objecting to it. If there are sufficient grounds for the complaint, the Office proceeds to suspend the offending advertisement, pursuant to Act No. 5811. The Office is staffed with employees who monitor any advertisement likely to have an impact in the country.

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<sup>2</sup> See the National Development Plan 2006-2010, attached to this report.

13. The National Office for the Control of Advertising not only deals with cases in which advertising promotes discrimination against minorities, such as the black population, it also protects the population against advertising containing stereotypes contrary to the free development of women and the family: there are cases in which advertisements have been suspended for being offensive to the dignity of older people, or that of children and the family.

14. Concerning specific action to combat discrimination against black women in Costa Rica, the National Office for the Control of Advertising decided in 2001 to suspend an advertising campaign launched by the American Sanitary enterprise concerning a product called “La Negrita”, in which packaging and radio advertising sent the message that black women are untiring because they are made for hard work, promoting a stereotype that kept black women in a role of subordination and slavery.

15. The reasons for suspending the advertising campaign are given in record No. 24 of 22 October 2001 at 1.30 p.m.<sup>3</sup> The session was held with broad participation of State agencies and civil society organizations, such as the Women’s Department and the Special Protection Department of the Office of the Ombudsman, the National Women’s Institute (INAMU), a State body, Afro-Costa Rican Women and the Centre for Afro-Costa Rican Women.

16. It should also be pointed out that the University of Costa Rica’s School of Anthropology, represented by its Director, Mr. Jaime Roberto Jiménez, carried out an analysis of the La Negrita advertisement and concluded that if American Sanitary continued to use the advertisement, it would be required to include the following caption: “This brand contains messages that are offensive to the dignity of women in general and black women and Afro-Caribbean culture in particular.”

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<sup>3</sup> It is important to note the inclusion of a statement by Ms. Katia Rodríguez, Director of the Special Protection Department of the Office of the Ombudsman: “... in this regard, it is essential that the Office for the Control of Advertising bear in mind that its task is not limited to a literal interpretation of the words dignity, family decency or image of women; we need to be aware of the context and realize that through this body the State of Costa Rica has given people an opportunity, as holders of human rights, to complain against any potentially discriminatory situations affecting rights and fundamental freedoms. May I remind you to bear in mind that this Office must base its judgement on international declarations and treaties that provide the fundamental framework for international human rights law, from the Universal Declaration of Human Rights, the American Convention on Human Rights, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, to two specific instruments that will be the focus of discussion today - the International Convention on the Elimination of All Forms of Racial Discrimination, Act of the Republic of 1967, and the Convention on the Elimination of All Forms of Discrimination against Women, which also became an Act of the Republic in 1984: all of these form the regulatory basis for the action to be taken by the Office for the Control of Advertising”. Excerpt from the report presented by the Director of the Office for the Control of Advertising of the Ministry of Public Security, the Interior and the Police.



17. The session also had before it a document signed by Mr. William Zamora Vegas, undertaking to change the advertisement for products under the La Negrita brand and requesting that other products sold on the Costa Rican market be subjected to a study, referring specifically to Blanquita bleach.

18. In this case the advertisement at issue was withdrawn as a result of joint action by the Office for the Control of Advertising and other government agencies, in compliance with the provisions of international human rights treaties signed by Costa Rica.

***Question 5. Please indicate whether the State party intends to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.***

19. The competent national institutions are currently studying the possibility of ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

20. However, the State of Costa Rica has on previous occasions expressed its concern that certain provisions of the Convention are unconstitutional.

21. It should be borne in mind that domestic legislation and the international legal instruments ratified by Costa Rica grant rights and adequate protection to all migrants living in the country.

## **II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT**

### **Article 2, paragraph 2: Non-discrimination**

***Question 6. Please provide information on the living and working conditions of immigrants, most of whom are from Nicaragua and Colombia, and indicate the current status of the new law on migration, including information on the reforms proposed in this law.***

22. The subject of living and working conditions of immigrants is very broad in scope, since it implies a full understanding of the different areas in which the State provides services to immigrants and its treatment of this population. Moreover, it should be made clear from the outset that the integration of immigrants in the receiving society is a gradual process, while bearing in mind that immigrants account for 11 per cent of the total population of Costa Rica. What is more, the Office of the United Nations High Commissioner for Refugees (UNHCR) has recognized that integration processes are gradual and progressive, and take place at different levels.<sup>4</sup>

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<sup>4</sup> UNHCR and University of Costa Rica, *Diagnosis of the degree of local integration of the Colombian refugee population in Costa Rica, 2003.*

23. The report submitted to the Committee on Economic, Social and Cultural Rights addresses the issue of immigrants as a special population in regard to the application of virtually every right set forth in articles 6 to 15. It should be emphasized, however, that the subject of migrants is dealt with in the context of the measures taken by the State of Costa Rica based on the principle of non-discrimination in the section on specific rights, covering those contained in articles 1 to 5 of the Covenant. The document thus provides an overview of the progressive development of immigrants' rights.

24. Concerning migrants' working conditions, the State of Costa Rica and its Government are making considerable efforts to ensure that migration is better and more appropriately organized. A strategic activity entitled "Towards orderly labour migration" has been included as part of the National Development Plan. Efforts are thus aimed at facilitating migration flows that the labour market is able to absorb, promoting the integration and employment of regularized foreigners and encouraging the grant of new employment permits based on the principle of complementarity, in the light of the strategy's objective of ensuring compliance with regulations and the provision of essential living conditions to all workers in general.

25. A key challenge is organizing the social and labour integration of workers from Nicaragua and Colombia. In the case of Nicaraguan migrants, a bilateral framework is in place to promote organized mobility with corporate responsibility. Since 2005, specific activities have been carried out with support from the Co-development Programme, with assistance being provided to both countries by the Spanish Agency for International Cooperation. The Programme includes organized mobility, studies on potential labour market demand, information and awareness raising on rights and duties of both workers and employers, and integration activities with the participation of the Office of the Ombudsman and civil society organizations. In the case of Colombian migrants, activities are being coordinated with UNHCR, the Association of International Consultants and Advisers (ACAI) and the Ministry of Labour and Social Security to facilitate labour integration, training, advice and employment promotion for the refugee population in Costa Rica.

26. Costa Rica, as a receiving country for migrants in general and labour migrants in particular, has also been applying the special categories under the General Migration and Aliens Act, i.e. border workers, temporary workers, specific-employment and project-tied workers, students, refugees, persons granted asylum, stateless persons and special guest workers.

27. It should be pointed out that Costa Rican institutions are making efforts to meet the needs of other categories of workers as well. The Ngobe-Bugle indigenous people migrating to Costa Rica from Panama follow specific migratory routes to harvest coffee as seasonal workers in San Vito de Coto Brus, Pérez Zeledón and Los Santos, after which they return to their home localities. In the banana-growing border area of Bribri-Sixaola, work permits have been issued in the past three years as a result of efforts by Costa Rican institutions, in order to provide protection in recruitment and conditions of employment.

28. An important means of improving the organization of labour migration in Costa Rica is a proposal to amend the Labour Code to include a chapter on labour migration. Given that Costa Rica is a receiving country for large numbers of migrants, legislative amendments are necessary to guarantee the rights and duties of the parties in this regard. The Ministry of Labour and Social Security has set up a working group to draft the relevant document.

29. In addition, at the binational level, the Costa Rican and Nicaraguan Ministries of Labour carry out coordinated activities, with the involvement of Nicaraguan consular representatives in Costa Rica.

30. The Ministry of Labour and Social Security has obtained budgetary resources to publish guidelines and information leaflets on labour issues, distributed free of charge to workers in general and migrants in particular. Other methods include the media, through which it provides information focusing on the target population.

31. Concerning the status of the new Migration Act and proposed reforms, the new Act entered into force a year ago, in August 2006, and is thus already being applied in practice.

32. However, in March 2007 the Department of Migration and Alien Affairs submitted Bill No. 16,594,<sup>5</sup> containing a proposal for a complete overhaul of the Act, which was drafted in coordination with other Government agencies, international organizations, and - what is even more noteworthy - representatives of civil society. The contents of the Bill thus take into consideration the concerns and standards of protection put forward by all those bodies, and therefore the new Migration Act that may come into force in future will be broad in scope and provide ample protection of migrants' human rights.

***Question 7. Please provide detailed information about practical measures undertaken to combat the salary discrepancies between men and women which continue to persist.***

33. During the present Government administration, 2006-2010, the National Women's Institute (INAMU), with technical and financial support from the United Nations Population Fund (UNFPA) and invaluable help from a team of professionals of the State of the Nation Programme, formulated the National Policy for Gender Equality and Equity, summing up the commitments undertaken by the State of Costa Rica for the next decade to make progress on equal opportunities and rights for women and men.

34. The Policy is based on three key strategic areas for action: economic autonomy, political participation and cultural change, all of which are fundamental to removing barriers in the way of equality for women.

35. The equality and equity assessment informing the Policy shows that one of the main problems and persisting gender gaps that need to be addressed is women's access to and stability in the labour market; a determining factor in discrimination is the wage gap and labour segmentation to the detriment of women, with the result that inequalities in the labour market and the employment relationship are compounded by a higher incidence of poverty among women.

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<sup>5</sup> The Bill is attached in a separate annex. It has been submitted to the legislature for discussion in Congress in the coming months.

36. The Policy sets six strategic long-term objectives which will guide State institutions in their work over a decade; it is expected that the objectives and plan of action will be formulated and validated in 2007.<sup>6</sup>

37. The second objective of the policy sets the challenge of quality paid employment and income generation. The aim is that by 2017 the country will have eliminated the main factors causing earnings gaps between women and men, female unemployment and underemployment, in the context of an overall increase in employment. To that end, efforts will be focused on two avenues for action: promoting the quality of female employment and creating new sources of employment for women, especially in disadvantaged areas.<sup>7</sup>

38. The State of Costa Rica has ratified the ILO Equal Remuneration Convention, 1951 (No. 100) (2 June 1960), and Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (1 March 1962), as well as the Convention on the Elimination of All Forms of Discrimination against Women, which reaffirms, recognizes and elaborates on the principles and labour rights for women set forth in these international legal instruments. Moreover, these international legal instruments rank above legislation. The principles and labour rights are guaranteed in the Political Constitution and further elaborated on in ordinary legislation (the Labour Code), special legislation and regulations.

39. In the field of constitutional and labour law, the Constitutional Chamber and the Second Chamber of the Supreme Court of Justice have built up a substantial body of jurisprudence on the development and interpretation of the principles of equality and non-discrimination in employment (thus demonstrating the justiciability of the economic and social rights laid down in international conventions), especially in proceedings for violation of women's labour rights related to pregnancy, breastfeeding or unjustified dismissal.

40. The Ministry of Labour and Social Security has a Gender Equity Unit that has carried out a number of activities and supported INAMU efforts to combat gender discrimination, including the following:

(1) Labour Code provisions establishing less favourable employment conditions for women domestic workers than for other categories were amended, with highly satisfactory results; foreign domestic workers, whose numbers have, incidentally, increased in recent years, are thus protected by law as a result of the amendment;

(2) The Gender Equity Unit participates in "*Agenda Legislativa*", an inter-institutional commission presided by INAMU, which analyses potentially discriminatory aspects of labour legislation to introduce mechanisms for narrowing the gap between men and women. It is

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<sup>6</sup> INAME and UNFPA, *National Policy for Gender Equality and Equity 2007-2017*, (San José, Costa Rica, 2007).

<sup>7</sup> Ibid.

currently giving priority to reviewing hours of work and wages of women domestic workers as the most vulnerable group, since they are at the bottom of the wage ladder as women and, for the most part, Nicaraguans;

(3) The National Wage Council approved a wage increase for women domestic workers for the second half of 2007, which is 2 per cent higher than that fixed for the rest of the private sector. This goes some way towards reducing the wage gap for this category of workers, who are clearly at a disadvantage.

***Question 8. In view of the measures undertaken by the State party to promote women's rights, including the enactment of relevant legislation, please describe difficulties or obstacles encountered in the efforts aimed at achieving gender equality, if any.***

41. By ratifying the Convention on the Elimination of All Forms of Discrimination against Women (1986) and taking on international commitments under instruments such as the Platform for Action for the Fourth World Conference on Women (Beijing, China, 1995) and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (1995), Costa Rica paved the way for bringing about significant changes in its legislation, most of which were introduced beginning in the 1990s.

42. The Act on the Promotion of the Social Equality of Women, No. 7142 of 8 March 1990, was the first law to draw on the Convention on the Elimination of All Forms of Discrimination against Women, with the aim of promoting and guaranteeing material equality of rights between women and men. The Act introduces a package of legislative amendments and affirmative action measures to eliminate discrimination against women. It represented a major milestone at the time in guaranteeing effective protection of women's rights.

43. Significant progress has been made in Costa Rica since the adoption of the Act in terms of legislation and public policy, based on the principles laid down in this and other international conventions, as well as commitments undertaken by the State.

44. As stated in other international reports by Costa Rica,<sup>8</sup> the process of eliminating androcentric biases in national legislation, and the Political Constitution in particular, has been slow and difficult, the law being a social product, in which women's special needs and interests are persistently made invisible. There has also been considerable resistance from those who are opposed to cultural change and the effective implementation of women's rights. There is a need for a more inclusive society in which diversity is respected, if the country is to achieve its full development potential. The ratification of the Convention on the Elimination of All Forms of Discrimination against Women by Costa Rica in 1986 paved the way for rethinking the principle of formal equality, but the challenge of achieving material equality based on differences remains.

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<sup>8</sup> Fourth periodic report of Costa Rica to the Committee on the Elimination of Discrimination against Women (CEDAW/C/CRI/4), 26 March 2003.

45. Public action is therefore aimed at promoting and institutionalizing gender equality and equity by extending rights, formulating institutional public policies and regional and local plans on equality, and introducing training to strengthen institutional and civic capacities for sociocultural change and women's empowerment.<sup>9</sup>

### III. ISSUES RELATING TO THE SPECIFIC PROVISIONS OF THE COVENANT

#### Article 6: The right to work

**Question 9.** *According to the United Nations Development Programme (UNDP), the informal economy in Costa Rica has increased by 30 per cent between 1997 and 2005. Please indicate the possible causes of this phenomenon and the measures undertaken to address the situation.*

46. It should be borne in mind that the trends in employment and production structure in Costa Rica in recent years are part of a regional trend, as most Latin American countries have experienced similar changes and effects in the structure of employment. It is thus worth mentioning some of the factors underlying the growth of the underground economy, which has been accompanied by a general increase in employment, as stated in the summary of the twelfth report on the State of the Nation, 2006:

*“In 2005 new employment opportunities opened up in the economy, bringing the number of employed persons up to 1,776,903. It should be pointed out, however, that this increase reflects both higher economic growth over that year and better capture of information, although the exact extent to which each has contributed is unclear. The registered increase in employment represents the highest net participation rate for the period 2000-2005; 56.8 per cent of the population aged 12 and over were economically active in the period under review. Net participation rates of both men and women reached their highest levels; this was especially true for women, whose participation rate (40.4 per cent) was nearly 2 percentage points higher than those recorded for the preceding period. Out of the total employed persons registered in 2005, 35 per cent were women and 65 per cent men. As is consistent with considerable employment growth, employment rates for 2005 were also the highest recorded for the period 2000-2005. At the same time, however, the open unemployment rate showed a slight increase (6.6 per cent). Broken down by branch of the economy, the most remarkable increase was 9.8 per cent in agriculture and livestock (23,228 persons), given the decreasing trend in employment in that sector in recent years. The question thus arises as to whether these figures reflect a reversal of the trend or merely a better capture of employed persons in these activities (Sauma, 2006). In 2004 a total of 245,328 persons were employed in the agriculture and livestock sector (including fisheries); the figure rose to 269,975 in 2005.”*

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<sup>9</sup> INAMU, Division on the Legal Status and Protection of the Rights of Women, “Institutional Strategy on the Protection of Women's Rights”, preliminary draft, 2007.

47. One of the possible reasons for the increase in visible and invisible underemployment is the changes in the productive structure in Costa Rica, which have accelerated since the end of the 1990s. There has been a decline in the traditional activities of two decades ago, such as traditional agriculture, making it difficult for people, especially younger entrants, to find jobs in traditional sectors of the formal labour market.

48. Costa Rica's economic and productive structure has changed with the country's gradual shift from an economy characterized by primary sector growth to one in which the secondary and tertiary sectors increasingly predominate. Thus, as pointed out in the first part of the report to the Committee:

*“72. Between 1984 and 2000 Costa Rica's employment structure underwent substantial changes, notably as a result of moving from a mainly agricultural to a service-based economy. In terms of their relative share of total employment, the service sectors increased the most, rising from 48.4 per cent in 1990 to 62.3 per cent in 2003. Both manufacturing industry and especially farming declined in relative importance. The latter accounted for 24.8 per cent of total employment in 1990, falling to 14.8 per cent in 2003. The farming and industrial sectors are now practically the same relative size. Tourism was one of the most important activities in the period: it accounted for 19.6 per cent of total exports and is responsible for much of direct foreign investment flows (State of the Nation, tenth report, 2004).*

*73. The economically active population (EAP) increased in the nineties without any major changes in the rate of unemployment. On the one hand, the number of employed increased by 60 per cent from 1,106,471 in 1990 to 1,676,661 in 2003 and the net participation rate for the whole population rose between 1990 and 2003 from 53.5 to 55.5 per cent (State of the Nation, tenth report, 2004).”*

*In addition, the report already noted that “75. A worrying trend in employment is the fact that the informal sector has been growing faster than the formal sector or farming. Between 1990 and 2003, of all jobs created, 352,217 were formal non-farming positions and 246,191 were informal, while the farming sector lost 28,217 jobs. The informal sector was the most dynamic over that period, with an average annual growth rate of 6.0 per cent as compared with 5.3 per cent in the formal sector (State of the Nation, tenth report, 2004).”*

49. It should be pointed out that changing market demands have been accompanied by effects such as increasing underemployment; according to figures in the State of the Nation report, this is particularly true in the service sector, with tourism-related activities as one of the areas in which the underground economy has grown the most.

50. Faced with this situation, the State of Costa Rica has set itself the task of developing policies to strengthen capacities, train the new labour force and adapt new generations to current labour market requirements, and is therefore investing heavily in innovation and research, use of technologies and language training. The following programmes may be mentioned, among others:

- Design and implementation of the National Vocational Training System (SINAFOP), which will coordinate the work of the National Training Institute (INA) and the Ministry of Public Education to provide vocational training programmes targeting aspiring young jobseekers who are excluded from the formal education system or others needing retraining. The intention is to train 12,000 persons during the period 2007-2010;
- Programme for the certification of competencies, for which a national technical committee for the certification of labour standards will be set up to set standards in construction, industry and services;
- Establishment of a national labour intermediation, vocational guidance and employment system to find better ways of bringing job offers and jobseekers together by setting up an electronic platform for job information, guidance and intermediation, in cooperation with 20 municipalities.

51. All of the above are also linked to the special approach set forth in the National Development Plan to implement programmes to generate income earning, employment and social capital development opportunities for persons who are living in poverty, vulnerable and socially excluded.

#### **Article 7: The right to just and favourable conditions of work**

***Question 10. Please provide information on the working conditions in the agricultural sector and indicate what effective measures have been undertaken by the State party to improve the precarious working conditions in these sectors, including for migrant workers. Please also indicate whether labour inspections are regularly carried out in these sectors.***

52. Firstly, it should be noted that the National Development Plan includes two specific programmes providing for inspections and monitoring to ensure observance of workers' labour rights:

- A comprehensive inter-agency programme for the protection of human and labour rights in priority sectors: the intention is for 10 per cent of inspections to be carried out jointly by the Ministry of Labour and Social Security, the Ministry of Health, the Costa Rican Social Security Fund (CCSS) and the National Insurance Institute (INS);
- A preventive labour inspection programme, which will serve to raise awareness and provide training and advice to the different stakeholders in the labour market on the application of the legal framework protecting workers' rights, and help target 70 per cent of ex officio inspections on sectors designated as priority sectors because of the vulnerability of their workforce.

53. In practical terms, to reply to the question, given that the Ministry of Labour and Social Security has organized its inspections and supervision of working conditions by geographical area, the information provided by the representatives in charge of each region is given below.



54. **Pacific-Central Regional Office** (Puntarenas, San Ramón, Orotina and Aguirre inspectorates):

- 31 inspections were carried out in farms with both large and small workforces, ranging from ornamental plant farms to livestock farms, African oil palm and banana plantations and pineapple farms, covering a large geographical area;
- 20 administrative conciliation sessions were conducted in the first seven months of 2007, 15 of which led to economic settlements in the workers' favour;
- Inspections were carried out in order to prevent violations of labour law, by ensuring compliance with the following requirements: enrolment in CCSS, pay slips, first aid kit, occupational risk insurance policy, vacation, paid holidays, overtime, minimum wage, sanitary facilities, personal protective equipment, prohibited working hours, prohibited practices for employers, fire extinguishers, smoking regulations, showers, changing rooms, internal sexual harassment procedures and improvement of workers' accommodation. Many of the violations reported concern occupational health conditions in packing plants, canteens, storerooms and administrative offices of farms, hence the importance of the kind of reporting described above;
- Some 1,051 workers were covered by the inspections;
- Four inspections of agricultural workplaces were carried out per month, on average.

55. There are migrants employed on farms and in workplaces, and they are covered by the same service and labour protection.

#### **Huetar Norte Office**

56. Periodic inspections are carried out each year by activity, focusing on sugar, citrus and pineapple plantations, among others.

#### **Chorotega Regional Office**

57. Throughout the region, action has been taken in urgent cases to provide protection to agricultural workers, specifically those employed in agro-industry, for example in planting activities and melon, mango, pineapple and sugar cane harvesting, depending on the season. To that end, inspections are carried out with the participation of the entire staff of inspectors. To begin with, an initial inspection is conducted to check for violations of labour legislation, ensure that proper working conditions are provided and eliminate poor living conditions of national and migrant workers. (Such inspections have been carried out in the CATSA, El Viejo and Taboga sugar mills, the Melones de Costa Rica farms in Carrillo and Sardinal, pineapple farms in the Upala area, melon farms in Lepanto and Nandayure, mango farms in Liberia, orange groves in Upala, etc.)

### **Central region**

58. The agricultural sector in the Central region is not very significant in terms of coverage or potential coverage by inspections. In Cartago, for example, owing to the remoteness of the area and lack of resources, inspections are carried out mainly in response to complaints, which are infrequent. The other area covered by inspection is the Los Santos and Cerro de la Muerte area, where visits are conducted according to an inspection schedule.

59. Concerning the Heredia area, transport facilities need to be improved to enable access both for inspections and for complaints; inspections are carried out, albeit at infrequent intervals.

60. In San José, agriculture is concentrated in the Santa Ana area; few complaints are received in this regard.

61. In general, agricultural inspections in this area are conducted according to an inspection schedule.

### **Huetar Atlantic region**

62. The procedures are generally the same as those already described; inspection visits are conducted and warnings issued where necessary, with subsequent follow-up visits to verify compliance with the warnings. Where foreign workers are employed, inspectors verify their enrolment in CCSS.

63. Where a complaint has been received concerning violation of labour rights in this sector, it is handled in accordance with the relevant manual of procedure.

### **Brunca region (southern zone)**

64. Broad coverage has been achieved, with inspectors from the entire southern zone being assigned to the different sectors in order to cover all the agricultural areas and ensure that workers are properly treated and not subjected to abuses; the main objective is prevention and verifying employer compliance with the requirements concerning minimum wage, first aid kits, special protective equipment, overtime, INS coverage, enrolment in CCSS, holidays and all the other workers' rights, as well as safety and health aspects.

65. In addition, inspections have been carried out in mature oil palm plantations affected by infestation with *Dieffenbachia* (known as "zahinillo" in Spanish). This plant presents a physical hazard for workers, and advisory assistance on the subject has been obtained from the Ministry of Agriculture and Livestock and the Ministry of Environment and Energy.

66. Migrant workers have been treated without discrimination, and coordination has been carried out with the competent authorities.

***Question 11. Please provide detailed information on the level of protection provided to workers against dismissal for union activities in the State party. Please comment on the reported dismissals of unionized workers in the banana industry and alleged harassment of unionized workers in Export Processing Zones.***

67. The Costa Rican system of constitutional and labour law provides special protection to workers wishing to organize in trade unions.

68. In the **Central Pacific region**, there have been no complaints of unfair labour practices in the banana sector; only the canton of Parrita has a banana plantation with a large workforce, but no trade union has been established there.

69. Other inquiries show that there has been only one case this year, involving an African oil palm plantation belonging to MS-Multiservicios S.A., in the Quepos area, where a complaint of unfair labour practices was investigated but the case was dismissed in the absence of evidence of anti-union practices. An investigation is currently being opened into a complaint filed by the National Association of Public Employees (ANEP) against the municipality of Garabito.

70. No complaints of unfair labour practices have been filed in the Puntarenas Free Zone or in other enterprises in the region operating under the free zone regime.

71. No violations of trade union rights have been reported in **Huetar Norte region**.

72. Administrative proceedings have been filed in four cases in **Chorotega region**. The first case, involving CCSS employees in the town of Liberia (National Union of CCSS Employees - UNDECA), thanks to the timely intervention of local inspectors, was referred to the courts, which found in favour of the inspectorate and thus for the workers; however, it did not involve agricultural workers.

73. A second case involved water supply and sewerage employees and administrative and rural workers, while a third complaint filed by the Costa Rican Red Cross was related not to anti-union practices but to violations of acquired or statutory rights reported during an initial inspection visit. The fourth complaint, concerning violation of acquired rights, was filed by the trade union of employees of the Costa Rican Electricity Institute (ICE), the Trade Union Association of Communications and Energy Industry Employees (ASDEICE), at the Miravalles Geothermal project.

74. Generally speaking, there have been no reports of complaints of anti-union practices in agriculture.

**Huetar Atlantic region**

75. If an anti-union dismissal were to occur, the workers are aware of the appropriate procedure, since the Ministry of Labour has generally made an effort to provide labour legislation courses to enhance the knowledge of union officers and members.

### **Brunca region**

76. No alleged anti-union dismissals have occurred.

### **Central region**

77. Workers are offered protection against dismissal on account of trade union activity, especially in the agriculture sector. Generally, action is taken under the procedures established for the exercise of trade union immunity. Cases occurred in the Sarapiquí area several months ago, but in each case the parties were duly heard in accordance with the applicable manual of procedure on inspection.

78. Concerning the situation of migrant workers, it should be noted that the Labour Migration Department will have logistical resources in the second half of 2007 which, it is hoped, will enable it to address this issue within the framework of the Co-development Programme.

***Question 12. Please indicate what measures have been taken by the State party to implement the Committee's previous recommendations regarding the incompatibility of restrictions placed on the participation of foreigners in trade unions with article 8 of the Covenant.***

79. Concerning the Committee's opinion that the restrictions placed on the participation of foreigners in trade unions is not in conformity with article 8 of the Covenant in relation to article 7 of the Political Constitution of Costa Rica, already in 1997 the executive branch submitted to the Legislative Assembly a draft constitutional amendment prepared with ILO technical assistance.

80. During the different legislatures since then, authorities in the Ministry of Labour and Social Security have forwarded the observations of the ILO supervisory bodies on the issue, as well as the above-mentioned draft, but to date no text has been approved in accordance with the law.

81. For ease of reference, a copy of the draft legislation is attached to this report.

### **Article 9: The right to social security**

***Question 13. Please provide updated information on the extent to which the social security system in the State party covers marginalized and disadvantaged individuals and groups, including migrants and agricultural and domestic workers.***

82. According to institutional administrative records, health and pension insurance coverage under the contributory scheme is as shown in the table below.

**Table 1**  
**Costa Rican Social Security Fund (CCSS)**  
**Coverage of agricultural workers, people living in poverty, domestic workers**  
**and migrant workers, by type of insurance**  
**1 August 2007**

Group	Coverage (%)	
	Health	Invalidity, old-age and survivors' pensions
Agricultural workers	60.8	51.4
People living in poverty	67.6	-
Domestic workers	29.6	25.0
Migrant workers	75.8	25.8

*Source:* Statistics department, Actuarial service, CCSS.

83. The effective coverage of agricultural workers, migrants and people living in poverty is relatively high for a Latin American country. Collective insurance agreements have played a decisive role in increasing coverage in the agricultural sector.

***Question 14. What measures has the State party taken to provide access to the social security system, including social assistance, to refugees and asylum seekers, particularly to those that have no or little financial resources and are thus unable to contribute to the social security system, and to the public health-care services beyond emergency medical attention.***

84. The following should be noted:

(a) Protection of refugees is covered by the inter-institutional cooperation agreement between the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Costa Rican Social Security Fund;

(b) The most recent version of the agreement was the subject of an analysis carried out jointly by CCSS units (the billing, collection and distribution unit (SICERE) and the institutional services unit) with UNHCR representatives in Costa Rica, and takes into account observations made by the Fund's legal department. The document was submitted to the directors of the financial division by note No. 30.683 of 12 July 2007;

(c) The agreement covers protection of refugees, asylum seekers and duly recognized refugees under mandate holding cards issued by UNHCR, as long as they are not employees or self-employed persons;

(d) Refugees working as employees or self-employed persons are entitled to opt into the respective insurance schemes offered by the Costa Rican social security system, in accordance with the legislation governing such institutions;

(e) Refugees covered by the inter-institutional cooperation agreement between the UNHCR and CCSS and those working as employees or self-employed persons have the same rights as other insured persons under the provisions of the Social Security Regulation of the Costa Rican Social Security Fund.

***Question 15. Please indicate why the State party has not yet ratified the Social Security (Minimum Standards) Convention (No. 102), the Maternity Protection Convention (No. 103), the Social Policy (Basic Aims and Standards) Convention (No. 117), the Equality of Treatment (Social Security) Convention (No. 118) of the International Labour Organization (ILO).***

85. Firstly, it should be pointed out that Conventions Nos. 102 and 117 were respectively ratified by Act No. 4736 of 29 March 1971 and Act No. 3636 of 16 December 1965.

86. Although the other two Conventions have not yet been ratified, it is clear, from the report submitted to the Committee on Economic, Social and Cultural Rights and from some of the replies in the present document that Costa Rica provides equal or higher standards of protection during pregnancy and childbirth in all sectors of activity. The same is true for social security benefits, which are provided to foreign nationals on the basis of equality of treatment, in line with the categories set out by Convention No. 118.

87. Thus, even though the country's competent authorities should consider the need to ratify Conventions Nos. 103 and 118, Costa Rica has endeavoured to meet, and in some cases exceed, the requirements of those international instruments.

#### **Article 10: Protection of the family, mothers and children**

***Question 16. According to the Multi-Purpose Household Survey of 2002, 127,077 children were working under precarious conditions and 30 per cent of them were girls. More than 40 per cent were under 15 years of age, i.e. had not yet reached the legal minimum age for employment (paras. 460-463 of the State party's report). Please indicate what measures have been undertaken to combat child labour and provide information about results achieved since 2002.***

88. Costa Rica has so far had two national plans for the elimination of child labour. The first, known as the "**National Plan for the Prevention and Gradual Elimination of Child Labour and the Protection of Juvenile Workers 1998-2002**", was made public on 10 December 1998, and reflected the commitments made by the various institutions that were on its Steering Committee.<sup>10</sup>

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<sup>10</sup> The National Plan, which was scheduled to be implemented over a four-year period, served as a basis for the preparation of annual and biennial operational plans. It was monitored and evaluated by the Ministry of Labour and Social Security through its Child and Adolescent Labour Office, in cooperation with the Office of the Ombudsman. The National Plan was the subject of an evaluation, which made it possible to measure the extent to which the institutional commitments were being fulfilled.

89. Formulation of the “**Second National Plan for the Elimination of Child Labour and the Protection of Juvenile Workers 2005-2010**” began in 2003 with the establishment of a working party headed by the Ministry of Labour and Social Security as the lead agency, with the participation of representatives of State agencies, employers, trade unions, non-governmental organizations (NGOs), the National Union of Local Authorities and United Nations agencies such as the United Nations Children’s Fund (UNICEF) and the International Programme on the Elimination of Child Labour of ILO (ILO/IPEC). This made it possible to devise a consensus document that would benefit working minors.

90. The plan is rooted in the national legal framework on child and adolescent labour. Based on a comprehensive approach, it is aimed at providing a full range of support measures for child and adolescent workers and their families with a view to eliminating and preventing child labour, protecting adolescent workers and restoring their rights as developing individuals deserving a better quality of life. In addition to strategic activities, the plan also sets out the conceptual and legal framework, takes stock of the current situation and includes a chapter outlining public policy in respect of child and adolescent labour, which goes beyond a Government policy to become State policy, and provides for continuing action for working minors and their families.

91. At its April 2004 meeting, the National Steering Committee for the Prevention and Progressive Elimination of Child Labour and the Protection of Juvenile Workers adopted the plan, and requested all participating institutions, beginning in 2005, to incorporate into their operational plans and annual programmes the commitments that they had undertaken under the plan.<sup>11</sup>

92. In 2006 there was a change of Government in Costa Rica. The National Steering Committee accordingly agreed, at its regular meeting of 28 July 2006, to reformulate the Second National Plan to bring it into line with the policies of the current Administration. In addition, the Steering Committee decided to amend the plan to set more realistic goals and eliminate those that were not attainable. The plan would also assign achievable tasks to each agency with responsibilities for children’s and adolescents’ rights under the Children and Adolescents Code,

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<sup>11</sup> In 2005 one of the most important achievements was the development of implementation indicators with the participation of each of the bodies with responsibilities under the plan. The necessary follow-up is to be provided by the secretariat of the National Steering Committee for the Prevention and Progressive Elimination of Child Labour and the Protection of Juvenile Workers, with support from the Office for the Prevention and Elimination of Child Labour and the Protection of Juvenile Workers (OATIA). To carry out this task, meetings are held periodically with the committee of liaison officers of the various governmental and non-governmental bodies, in order to carry out periodical assessments of the plan’s implementation.

in addition to their statutory mandates. Once the plan has been reviewed by all the bodies concerned, it will be consolidated into a single document and published in an abridged version. This process is now under way.

### **Legal and regulatory progress in the field of child and adolescent labour**

93. **Convention No. 182:** After ILO Convention No. 182 was ratified in 2001, national consultations were held with the participation of representatives of State agencies, employers, trade unions, NGOs, the National Union of Local Authorities and United Nations agencies such as UNICEF and ILO/IPEC so as to define the types of work to be considered dangerous or unhealthy in accordance with article 3, subparagraph (d), of the Convention. Later, following consultations held in the Ministry of Labour and Social Security, a commission was established with representatives of the Labour Inspectorate and the legal affairs, labour relations, occupational health, employment, and social security departments. With the help of a consultant contracted by ILO/IPEC, the commission drafted a bill entitled “Prohibition of Dangerous and Unhealthy Work for Adolescent Workers”, which is currently awaiting consideration in the Committee on Children and Adolescents of the Legislative Assembly.

94. It should be pointed out that since 10 January 2001 Costa Rica has had “**Regulations on the Employment and Occupational Health of Adolescents**”, issued under **Executive Decree No. 29220-MTSS**. The Regulations are the outcome of national consultations held in 2000 to determine which activities are considered hazardous or dangerous, either because of the nature of the work or the conditions in which it is performed. Employment of adolescents aged over 15 and under 18 years in such activities is thus prohibited, while it is restricted in activities considered hazardous because of the conditions in which it is carried out.

95. Based on the above, and in accordance with the provisions of Convention No. 182, preparatory work has been carried out with ILO/IPEC, including training activities throughout the country and an awareness campaign under the title “Act now, Costa Rica! Say no to child labour!”, which was launched in January 2003 with a press conference held by the Minister of Labour and Social Security, Mr. Ovidio Pacheco. As part of the campaign, posters were designed and displayed in strategic locations such as bus stops, advertisements and spots were run in the media, the subject was aired on radio and television programmes, and writing and painting competitions on child labour were organized for working minors.

96. This campaign culminated with a declaration against child labour being signed by leading figures in politics, the arts, science, sports, religious groups, and others. These included the then President of the Republic, Mr. Abel Pacheco, the Minister of Labour and Social Security, Mr. Ovidio Pacheco, Mr. Franklin Chang-Díaz, Mr. Óscar Arias Sánchez, and the representatives of the National Steering Committee for the Prevention and Progressive Elimination of Child Labour and the Protection of Juvenile Workers.

### **New regulations**

97. At a regular meeting, the Children and Adolescents Council set 2005 as the deadline for the institutions concerned to draft regulations under the Children and Adolescents Code.



98. In order to meet this deadline, the Ministry of Labour and Social Security **reactivated the working party** consisting of officials from its departments dealing with labour affairs, labour inspection, legal affairs, employment, and social security. Through the Ministry's Office for the Prevention and Elimination of Child Labour and the Protection of Juvenile Workers (OATIA), the working party coordinated and initiated the process of drafting the regulations under the Code in respect of the subjects under the Ministry's remit.<sup>12</sup>

99. The regulations consist of nine chapters, some of which contain detailed provisions on the functions and duties of OATIA. A key section provides for coordination between OATIA and all the other Ministry departments to ensure that working children and adolescents receive adequate support. The regulations also clearly define the functions of each of the bodies involved.

#### **Intra- and inter-agency agreements on assistance to working minors**

100. In order to provide child and adolescent workers with prompt and high-quality comprehensive assistance, intra- and inter-agency agreements have been concluded for the coordination of support for working minors. This process is coordinated by OATIA, with technical support and funding from ILO/IPEC as part of its Time-Bound Programme.<sup>13</sup>

101. These intra- and inter-agency coordination agreements are an important step forward in the process of developing better tools for dealing with the sensitive issue of child and adolescent labour within institutions that are now broadening their focus from an adult-centred approach.

102. A decree is now being drafted on this topic, and implementation has begun with information and training activities for all the bodies involved.

#### **Strategic Alliances and Networking**

103. Measures to deal with the problem of child and adolescent labour include building **strategic alliances** between the various State institutions, employers, trade unions, NGOs and the community at large, with a view to mainstreaming the issue so as to ensure the full development of working minors and their families.

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<sup>12</sup> The work began with a written consultation of all the Ministry's departments, both those represented in the working party and others, such as those dealing with social organizations and alternative dispute resolution, the National Programme of Support to Small and Medium-Sized Enterprises (PRONAMYPE) and the Occupational Health Council. Once concluded, and with the approval of the Minister of Labour, it was sent on 6 January 2006 by official letter No. DMT-0062-2006 to the then Minister of Children and Adolescents.

<sup>13</sup> The inter-agency agreement was concluded between the Ministry of Labour and Social Security, through OATIA, and the Inter-Agency Institute for Social Assistance, the National Training Institute, the Ministry of Public Education and the National Child Welfare Agency (PANI). It sets out the procedures to be followed by the responsible services of each body for the prompt handling of the cases involving working minors that are referred to them.

104. Because it is the community that must be the driving force for its own change, and therefore must uphold children's rights, work has been carried out to establish local community networks in Golfito, Corredores and Osa, with participation by the local administrations in Moravia, Santa Cruz, Cañas, Carrillo, Liberia and La Cruz de Guanacaste. The process has required constant support, advice, awareness-raising and training on the subjects of children's and adolescents' rights, child and adolescent labour and the drafting of action plans.

### **Training and awareness-raising**

105. In order to raise awareness and bring about a change of attitude in the Costa Rican population regarding the problems faced by children and adolescents when they begin working at an early age, the following activities were carried out between 2002 and 2007:

- Four hundred and twenty training and awareness activities, covering 9,560 persons (employers, workers, trade union and public officials, labour inspectors, members of NGOs, children and members of the public);
- Participation in 34 radio and television programmes;
- Publication of newsletters, compendiums of laws and documentation, such as magazines, articles and information materials for distribution to some 10,000 people.

106. The National Child Welfare Agency (PANI) has carried out the following activities:

- The “Second National Plan for the Elimination of Child Labour and the Protection of Juvenile Workers”;
- A training programme for its officials, carried out by region (11 training sessions in 9 regions);
- Training for some 350 officials;
- Participation by officials of PANI and of other bodies, such as the National Training Institute, the Inter-Agency Institute for Social Assistance, the Ministry of Public Security and representatives of children and adolescents protection boards and of the Ministry of Public Health;
- During these training sessions, distribution of reference materials, and submission of a proposal for a model inter-agency agreement for coordination of work between the various institutions;
- Provision to PANI local offices of relevant legislation, videos and supporting documentation for the replication of training;
- Distribution to all PANI local offices of grids to be filled in by each office indicating planned activities during the years covered by the plan on child labour. The activities are broken down in accordance with the new range of services offered by PANI;

- An educational campaign conducted in the media in Corredores, Golfito, Alajuelita and Acosta (priority cantons under the Second National Plan);
- Prevention and educational activities using radio and television spots, documentation and other print material produced by ILO/IPEC and the Ministry of Labour and Social Security and provided to PANI;
- Publication in a newspaper in Los Santos of a report on child labour, with a significant impact on coffee-growing companies, which requested training sessions for local companies;
- Inclusion in the 2006 annual operational plan (PAO) of prevention activities in various localities.

### **Implementation of the Direct Support Programme for Juvenile Workers**

107. Under this programme, a register is kept of child and adolescent workers who have received support from the Ministry of Labour and Social Security's OATIA office, and of those identified and referred by various bodies inside and outside the Ministry. From 2002 through the first half of 2007, some 8,684 working minors received support. For 3,634 of them study grants were recommended, while the rest were referred, according to their needs, to the Inter-Agency Institute for Social Assistance, PANI and the Ministry of Public Education and the Costa Rican Social Security Fund.

108. Information and advice were provided to 7,500 children and adolescents who approached the Ministry of Labour and Social Security to enquire about their rights, current legislation, the responsibilities of the various stakeholders and the resources available under the comprehensive support process.<sup>14</sup>

### **Research**

109. Research activities include the following studies: (1) **“Study on the situation of adolescent workers in the fishing industry on the Pacific coast of Costa Rica”**. This research was prompted by the increasing number of minors employed in deep-sea fishing activities. The study will be carried out by the Ministry of Labour and Social Security in coordination with the Costa Rican Fisheries and Aquaculture Institute (INCOPECA); (2) **“Diagnostic study on child and adolescent labour among migrant groups in the Upala and Los Chiles**

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<sup>14</sup> As mentioned in the report on economic, social and cultural rights, education programmes are available that allow teenagers to combine work and study. These include programmes offered by the Ministry of Public Education, such as the “Open Classrooms” programme for children who have not completed primary school, and a “New Opportunities for Youth” programme at the secondary level, which provides instruction twice a week. Lastly, there is a programme preparing students for the school-leaving examination, in which they progress at their own pace, taking the number of subjects that suits them in accordance with their personal abilities.

areas”; (3) “**Diagnostic study on child and adolescent labour among indigenous groups in the Los Santos and Southern areas**”; and (4) “**Studies on the health effects on minors involved in the production of potatoes, sweet peppers and tomatoes**”.

110. Various diagnostic studies have been conducted in the Cartago communities in the Brunca region, focusing on activities such as hired domestic work, shellfish harvesting and agricultural work.

### **Projects for the elimination of child labour and the protection of adolescent workers**

111. With technical support from ILO/IPEC, projects have been carried out by NGOs with the participation of public and private bodies to provide direct assistance to a large number of child and adolescent workers.

112. OATIA, as the national counterpart agency, has carried out activities to advise, support, supervise, monitor, select and directly assist beneficiaries of projects aimed at eliminating child labour and protecting adolescent workers.<sup>15</sup>

***Question 17. Please indicate whether the State party intends to adopt legislative measures and monitoring mechanisms to protect women and children, including street children, from sexual exploitation, particularly in the light of growing sex tourism in Costa Rica. Please also provide disaggregated data on street children, on an annual basis.***

113. The State recently adopted legislative measures to extend and improve the protection of victims of sexual exploitation. To that end, it promulgated the Reform of the Act against the Commercial Sexual Exploitation of Minors, which amends articles 156, 157, 159, 161, 162, 167, 168, 170, 171 and 173 of the Criminal Code, and articles 18 and 33, and article 31, paragraph (a), of the Code of Criminal Procedure.<sup>16</sup>

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<sup>15</sup> Attached is a list of projects implemented to eliminate child labour and protect adolescent workers (four tables).

<sup>16</sup> The Act introduces the following changes:

- It raises from 12 to 13 the age of minors covered by protection against the following offences: rape (art. 156), sexual relations with minors (art. 159), sexual abuse (art. 161), corruption of minors (art. 168) and living on the earnings of prostitution (art. 171);
- It criminalizes the preparation, production or reproduction of pornographic material (art. 173);
- It criminalizes possession of pornographic materials in which minors appear (art. 173 bis);
- It establishes that the period of limitation shall run from the date on which the victim reaches majority;

114. The relevant aspects of this reform are:

- Extension of the statute of limitations for criminal proceedings. If criminal prosecution has not yet begun, it shall be subject to prescription “once a period has lapsed equal to the maximum sentence, for offences punishable by imprisonment; provided the period in question is not over 10 years nor under 3, except for sexual offences committed against minors, in which case the period of limitation shall run from the date on which the victim reaches the age of majority” (subpara. (c));
- Extension by one year of the protection afforded to minors, to cover persons under 13 years of age;
- More severe sentences when the offence is committed by taking advantage of the victim’s vulnerability or inability to resist, or using violence or intimidation, and also when the perpetrator takes advantage of a relationship of trust with the victim or the victim’s family, irrespective of kinship ties;
- Criminalization of the possession of pornographic material that uses images and/or voices of minors.

115. In Costa Rica, a sustained effort has been made in general terms to ensure and improve the protection of minors against commercial sexual exploitation. The current Government, under the National Development Plan 2006-2010, recognizes the need to overcome fear and to face this complex challenge through an inter-agency, inter-organizational and interdisciplinary approach, in a systematic and sustained effort to tackle both the underlying structural reasons and the proximate causes of commercial sexual exploitation of children and adolescents in Costa Rica, and through more effective institutional action, both to prevent and respond to the problem, and to ensure that victims are protected and their rights defended.

116. Costa Rica has been promoted as an exotic and permissive tourist destination that openly tolerated sexual tourism involving minors. In 1996, under the leadership of PANI, this situation was publicly denounced and a national commission was established, with inter-institutional participation by NGOs and international organizations, under the name of the National Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents (CONACOES).

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- It more clearly defines lines of kinship for the qualification of offences and relationships of power or trust (arts. 157, 159, 161, 162, 168, 170 and 171). (For example, article 157 specifies ascendant or descendent relationships up to the third degree, whereas previously the degree of relationship was not mentioned. The same article establishes that the perpetrator may be an uncle, aunt, nephew, niece or cousin. The relationship of trust is described, indicating that the offender may be the victim’s guardian, or may have custody of the child or be responsible for the child’s upbringing. The relationship of power may be that resulting from the exercise of a function by members of the clergy, spiritual leaders, law enforcement officers or State officials.)

117. The National Plan against Sexual Exploitation of Children and Adolescents puts forward three main areas of action: (1) Prevention; (2) Legal reforms and repression; and (3) Victim support.

118. The Plan and CONACOES have achieved the following:

**1. Prevention**

- Four national prevention campaigns have been held and have been replicated at the regional and local levels;
- 400 inspections have been carried out annually;
- Training and awareness workshops (over 160 in all) have been held for over 10,000 people (from civil society and public bodies);
- A project has been implemented for child safety on the Internet;
- Over 60,000 children and adolescents have taken part in workshops to discuss their rights;
- A project has been carried out under the title “Code of conduct for the protection of children and adolescents against commercial sexual exploitation in tourism”, with the participation of 10 tour operators, car rental companies and 2 taxi companies;
- The Public Transport Council of the Ministry of Public Works and Transportation has agreed that the use of taxis for purposes of commercial sexual exploitation constitutes grounds for the withdrawal of taxi licences;
- Prevention and information materials have been produced and widely distributed: posters, brochures, billboards, etc.;
- Prevention advertisements have been produced for the press, radio and television;
- The Costa Rican Tourism Institute has included the protection of children and adolescents on its website;
- Radio programmes and a video clip (entitled “Hey You”) for adolescents have been produced;
- The film “Password” has been distributed and discussed in forums.

**2. Legal reforms**

- The Act against the Commercial Sexual Exploitation of Minors (Act No. 7899), adopted in 1999;

- Executive Decree No. 31763-MP-SP-S-MNA, Regulations to Monitor and Regulate Premises Offering Public Internet Service;
- Executive Decree No. 31764 of 2004, Regulations for Video and Computer Game Rooms and classification of games by level of violence;
- Act No. 8590 criminalizing possession of child pornography;
- In addition, the amendments to criminal provisions described above.

### **3. Repression**

From 1999 to September 2006 there were 65 cases of persons prosecuted for the offence of engaging in paid sexual relations, including:

- 35 convictions;
- 10 cases pending;
- 5 cases tried in absentia;
- 1 case dismissed with prejudice;
- 1 case withdrawn with diversion from prosecution;
- 6 indictments in criminal court pending the setting of trial dates; and
- 6 acquittals.

119. PANI, working with the Ministry of Public Security, carried out 280 inspections, for example in nightclubs, bars and brothels. As for child pornography, the following cases have been brought:

- 65 complaints of dissemination of pornography;
- 21 complaints of preparation or production of pornography.

### **4. Support**

120. Important achievements include:

- The drafting of guidelines by PANI, the Ministry of Public Education, the Ministry of Health and the Ministry of Public Security;
- The development of a care model for victims by PANI/University of Costa Rica and ILO/IPEC;

- Administrative protection measures for the persons concerned;
- A map of trafficking in persons (commercial sexual exploitation);
- The launching by PANI of the Programme for the Comprehensive Care of Children and Adolescents who are at Imminent Risk and Most Vulnerable;
- Steps to establish a national coalition to combat the smuggling of migrants and trafficking in persons;
- Active participation in drafting the Inter-Agency Protocol for the Repatriation of Victims of Trafficking.

121. CONACOES is in the process of drafting the new National Plan to Combat Commercial Sexual Exploitation 2006-2010.

122. The plan has the following characteristics:

- It is a consensus-based proposal by CONACOES outlining measures to be adopted by the State from 2007 to 2010 and aimed at more effective promotion/prevention and assistance in connection with the commercial sexual exploitation of children and adolescents and the protection and defence of victims' rights;
- It is operational, defines duties and responsibilities, and coordinates action;
- It takes account of the legal, political, institutional and technical environment;
- It is the outcome of an agreement reached by the CONACOES working group;
- It is a useful means of intersectoral and inter-agency coordination;
- It covers a three-year period.

123. The strategic themes of the new plan are:

- Awareness-raising;
- Training;
- Communication;
- Research;
- Monitoring and evaluation.



124. It is composed of the following subcommissions:

- Promotion and prevention;
- Care;
- Protection and defence of rights (administrative and judicial procedures);
- Support systems;
- Institution-building.

125. In addition to CONACOES and the National Plan to Combat Commercial Sexual Exploitation, PANI has set up a Programme for the Comprehensive Care of Children and Adolescents who are at Imminent Risk, targeting children in the following situations:

- (a) Commercial sexual exploitation;
- (b) Street children;
- (c) Drug abuse;
- (d) Survival strategies.

126. The overall objectives of the programme are:

- (1) To provide the target population with comprehensive care that guarantees their rights through preventive, educational, rehabilitation and social reintegration activities offering them real opportunities to improve the quality of their lives;
- (2) To build a network of governmental and non-governmental organizations to guarantee the system-wide provision of assistance to this population group.

***Question 18. Please indicate to what extent women workers benefit from the application of the Act on Sexual Harassment in the Workplace and in Education.***

127. As regards the Act on Sexual Harassment in the Workplace and in Education, efforts have been focused on developing a proposal for a revision of the Act that will remedy some of the gaps and deficiencies identified in its application.

128. The proposed amendments include the following:

- The scope of the Act is extended so that the prohibition and punishment of sexual harassment in the workplace and in education also apply to the private sector;
- It stipulates that the employer or supervisor is obliged to report the complaint to the Office of the Ombudsman so that it may take cognizance of it;

- Again, it provides that in the private sector the employer must report the complaint to the relevant department in the Ministry of Labour and Social Security;
- In the case of sexual harassment in educational establishments, all such establishments, without exception, must formally report the incident;
- It defines the grounds for dismissal that may be applied to a person who has filed a complaint of sexual harassment and the procedure to be followed;
- It excludes conciliation as an option;
- It sets forth the principles underlying the procedure to be followed in the workplace, namely: due process, proportionality and freedom of evidence, as well as the confidentiality of information and the principle of giving the victim the benefit of the doubt. The complainant is considered a party to the proceedings; the evidence is evaluated in accordance with the rules of reasoned judgement, and, in the absence of direct evidence, circumstantial evidence must be used, while expressly prohibiting consideration of the victim's past history, particularly with regard to his or her sex life;
- In addition, the amendments allow the parties access to legal advice and emotional support throughout the proceedings, and strengthen preventive measures for the complainant, at any time during the proceedings, on application of the party; the Act also lists protective measures, such as relocation and transfer, which may be applied to the person against whom the complaint has been lodged, at the request of the higher authority or the body competent to deal with the complaint;
- The amendments to the Act list public elected offices, in each case specifying the penalty for sexual harassment by office holders and indicating the body responsible for applying such penalties.

***Question 19. According to information received in 2002, 70,128 cases of domestic violence have been reported. Please describe the measures taken to address this problem and provide updated data on the number of victims, perpetrators, convictions, and the types of sanctions imposed.***

129. The National Women's Institute (INAMU) has information indicating that protection measures are applied pursuant to the Domestic Violence Act, on average, in 50,000 cases per year at most. The most significant step taken to deal with the problem was the promulgation, in May 2007, of the Act Criminalizing Violence against Women. By providing specifically for punishment of this form of violence, the Act fulfils Costa Rica's commitment undertaken when ratifying the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.

130. The Act defines new offences in recognition of the serious nature of violence within marriage or a de facto union, including emotional and sexual violence and violence to property as well as physical violence. In addition, it lays down rules for alternative sentencing: in certain circumstances, the judge may impose a penalty other than imprisonment, determined in the light of the context of violence in which the offence was committed.

131. Updated figures on cases of domestic violence between 2003 and 2006 are provided in the relevant annex. By way of illustration, the register of complaints of domestic violence in 2006 contained 46,213 cases, of which, as at 31 December, 8,923 were still open.

132. However, it should be made clear that not all cases registered involve violence against women, since, according to the first law issued on the subject, the concept of domestic violence in Costa Rica encompasses that between family members and within the home. The types of behaviour described in the Domestic Violence Act even include specific offences such as armed assault and failure to meet maintenance obligations, as can be seen from the table below on complaints in cases of domestic violence during the period 2003-2006 received by the Specialized Unit on Sex Offences and Domestic Violence in San José.

**Complaints in cases of domestic violence during the period 2003-2006**

	2003	2004	2005	2006
Total	47 086	48 073	47 396	46 144
Complaints in cases of domestic violence received by the Specialized Unit on Sex Offences and Domestic Violence during the period 2003-2006				
Title and type of complaint				
Neglect of incompetent person	14	14	10	14
Abortion	8	13	11	7
Abuse of paternal authority	10	15	6	7
Assault	86	83	26	31
Armed assault	0	4	27	48
Threats	41	80	19	3
Coercion	1	7	0	0
Damage	9	8	4	0
Disobeying authority	131	45	22	18
Homicide (attempted)	7	5	4	4
Intentional homicide	7	2	1	1
Failure to meet maintenance obligations	8	10	8	11
Failure to comply with the obligation to provide assistance	0	5	1	5
Bodily injury	83	126	72	43
Slight bodily injury	2	2	0	0
Serious bodily injury	4	3	2	0
Deprivation of liberty	3	8	2	4
Unlawful detention	5	4	0	0
Abduction of a minor or legally incompetent person	18	28	44	42
Breaking and entering	7	2	1	2
Total	444	464	260	240

### **Article 11: The right to an adequate standard of living**

***Question 20. Please indicate what measures the State party has taken regarding the precarious conditions of housing, in particular for Nicaraguan families, and whether forced evictions, if and when carried out, are in accordance with the Committee's general comments Nos. 4 and 7. Please provide any case law relating to forced evictions.***

133. First of all it must be made clear that, as a rule, foreign families, which of course includes Nicaraguan families, or a low income who meet the conditions laid down in the National Housing System Finance Act and its regulations are entitled to the subsidy called the free housing allowance.

134. The fourth periodic report gave updated figures on families with at least one member of foreign nationality who had received the housing allowance.<sup>17</sup>

135. The granting of allowances to families with members of foreign nationality is part of plans to eradicate slums and to combat poverty, in view of the large number of foreigners belonging to communities whose housing conditions are a matter of concern.

136. Forced evictions occur mainly when land intended for the construction and extension of national highways is occupied illegally. Since recovering the right of way involves finding temporary or permanent solutions for the persons occupying such land, an Inter-Agency Resettlement and Relocation Commission was set up in Costa Rica, by Executive Decree No. 31277-MP-SP-MIDEPLAN-MIVAH-MS. The Commission has started work on conducting a census of the population which is occupying the right of way, determining the legal status of the occupied lands, contacting community leaders, carrying out a preliminary social assessment so that housing allowances may be granted to those meeting the requirements for such assistance, or alternative subsidies provided, for example by the Inter-Agency Institute for Social Assistance (IMAS).

### **Article 12: The right to physical and mental health**

***Question 21. Please provide detailed information regarding the reportedly high rates of teenage pregnancies, and on the measures taken by the State party, including evaluation and information campaigns on sexual and reproductive health.***

137. The percentage of births among teenage girls aged 19 and under has remained at around 20 per cent over the last five years, with 9 per cent of these births to girls under the age of 18. This situation is a matter of concern to the State, not because of the pregnancies per se, but the conditions in which they occur, especially: the absence of information; the fact that child and adolescent sexuality are not adequately addressed in our society; sexual violence; the blame for

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<sup>17</sup> Cf. fourth periodic report, p. 156.

pregnancy being placed exclusively on girls; the lack of family support; the absence of the father; the failure of the health services to provide assistance; and, in general, the limited opportunities for teenage girls to prepare for their future.

138. It should be noted that 95 per cent of teenage births are handled by public health centres run by the Costa Rican Social Security Fund (CCSS).

139. Below are three tables showing birth statistics for girls aged 18 and under, for the period 2001-2006.

**Table 1**

**Births to girls aged under 18, Costa Rica, 2001-2005**

Year	Under 12	12-15	15-17	Total	Total number of births	Percentage of total number of births
2001	6	595	6 652	7 253	76 401	9.49
2002	5	468	6 351	6 824	71 144	9.59
2003	3	474	6 317	6 794	72 938	9.31
2004	1	437	6 053	6 491	72 247	8.98
2005	1	453	5 868	6 322	71 548	8.83

*Source:* INEC. Population Statistics, 2005.

**Table 2**

**Births to girls aged 18 and under, Costa Rica, 2001-2005**

Year	Under 12-18 years	Total number of births	Percentage of total number of births
2001	11 039	76 401	14.44
2002	10 353	71 144	14.55
2003	10 560	72 938	14.47
2004	10 020	72 247	14.61
2005	10 088	71 548	14.09

*Source:* INEC. Population Statistics, 2005.

**Total number of teenage births by age group, 2006**

Mother's province of residence	Total	Under 15	15-19
Costa Rica	71 291	469	13 528
San José	22 982	113	3 812
Alajuela	13 652	95	2 646
Cartago	7 466	29	1 332
Heredia	6 290	30	939
Guanacaste	5 581	42	1 229
Puntarenas	7 538	71	1 685
Limón	7 782	89	1 885

*Source:* INEC.

140. These data show an increase from 8.83 per cent to 14.09 per cent in births in 2005 among teenage girls, if girls aged 18 are taken into account. This may reflect a direct link between formal entry into adulthood (18 years) and the realization of aspirations to motherhood and/or a relationship, possibly associated with other factors.

141. Under article 51 of the Constitution of Costa Rica the State must provide special protection for mothers and children. This is reaffirmed in articles 3 and 24 of the United Nations Convention on the Rights of the Child, ratified by Costa Rica in 1990, under which State authorities are obliged to give special consideration to children. In addition, steps have been taken within the health sector to ensure compliance with other international agreements signed by Costa Rica relating to adolescents and sexual and reproductive health, such as the Millennium Development Goals, the International Conference on Population and Development (Cairo, 1994) and the Panama Declaration on Children and Adolescents (Panama, 2000).

142. As regards national legislation, article 12 of the General Health Act, (Act No. 5395 of 30 October 1973) provides that pregnant women and mothers have the right to information services on maternal and infant welfare, to professional care during childbirth and to food to supplement their diet and that of the child during breastfeeding.

143. Under articles 38 and 50 of the Children and Adolescents Code, (Act No. 7739, of 6 January 1998) the State and its institutions are also obliged to provide food for children and pregnant women, when this is necessary for family, work-related or health reasons.

144. The Adolescent Mothers Protection Act (Act No. 7735) was drafted in 1998 in response to the need to provide comprehensive care for teenagers who are pregnant or mothers with the idea of according priority and specific attention to adolescent girls in terms of education and prevention activities relating to sexual and reproductive health. Under the Act, the following Government bodies are responsible for providing assistance to this population group: the National Child Welfare Agency, the Inter-Agency Institute for Social Assistance, the Ministry of Public Education, the Costa Rican Social Security Fund, the National Training Institute, the National Women's Institute and the Ministry of Labour. In addition, several articles of the Children and Adolescents Code lay down the responsibilities of the competent bodies in terms of protection.

145. As regards the implementation of the Act, wide coverage is ensured by a good network of mother and child health-care services providing prenatal, childbirth, post-partum and neonatal care for teenage mothers and their children.

146. In line with the institutional responsibilities laid down in the legislation, the Building Opportunities Programme 1999-2006 was set up to provide comprehensive care for adolescents who become pregnant and teenage mothers. All the aforementioned institutions participated in the Programme in order to coordinate the provision of services. Moreover, since 2001, the National Child Welfare Agency has been running projects to help teenage mothers resume their education.

147. Some of the activities targeted at this population group are currently being reviewed and reorganized. However, it is worth noting the new Comprehensive Health Care Model introduced by CCSS, which seeks, among other things, to create attractive and separate facilities to provide both outpatient and inpatient care to adolescents, and to strengthen health-building processes with the participation of adolescents and parents, emphasizing a holistic approach to health care, with inter-agency promotion and prevention activities. Sexual and reproductive health is thus a key element in the annual operating plans of CCSS; for the adolescent population in particular, strategic alliances have been forged with international organizations (the Pan American Health Organization (PAHO)/World Health Organization (WHO) and the United Nations Population Fund (UNFPA)).

148. In this connection, in the first half of 2007, the document entitled “Guidelines for the CCSS Comprehensive Care Model for Adolescents” was issued. It is a technical document based on input from experts on adolescence, health officials working in the different levels of health care, key staff from governmental and non-governmental organizations and youth leaders from different areas. In addition, CCSS is currently drafting an institutional sexual and reproductive health plan to coordinate and improve its response to the needs and priorities of the population in this area.

149. The technical team of the CCSS Comprehensive Care Programme for Adolescents has developed cascade training strategies and produced material to enable officials and youth leaders to implement strategies for the prevention of teenage pregnancies, health promotion, prevention of risky behaviour and other sexual and reproductive health issues.

150. This material, which includes educational videos, may be consulted on the web page of the CCSS National Library of Health and Social Security ([www.binasss.sa.cr](http://www.binasss.sa.cr), click on “sitio de adolescencia”). The annex includes detailed information on the modules, guidelines and manuals produced by the Comprehensive Care Programme for Adolescents.

151. The current Government is implementing the “Avancemos” Programme (“Let’s get ahead”), which offers scholarships to help teenagers stay in school. It is also important to note that the National Child Welfare Agency, in line with its objectives and functions laid down in the Act which established it and in the Social Sector Development and Poverty Alleviation Plan 2006-2010, is putting forward a back-to-school programme for teenage mothers. Its basic objective is to coordinate institutional and community efforts to enable teenage mothers, by continuing their education, to focus on new ideas, attitudes and practices that will enhance their personal and social skills with a view to achieving a better quality of life for themselves and their children.

152. Since 1998, the National Women’s Institute has carried out activities to raise awareness of the rights of teenagers who are pregnant, developed and validated methodologies for personal empowerment, and provided advisory services on gender issues for professionals working with this population group. Since 2004, it has worked to sensitize the public to child pregnancy as a form of sexual violence and, accordingly, the need to devise strategies for addressing it that take into account the conditions in which these pregnancies occur and their impact on girls’ lives.

***Question 22. According to information received, there have been cases of mismanagement, embezzlement and misappropriation of funds provided by foreign donors in the Costa Rican Social Security Fund (CCSS), the service that administers the public health infrastructure and operates health insurance and pension funds. Please provide information regarding internal controls of the CCSS.***

153. First of all it should be made clear that, according to the internal audit records of the Costa Rican Social Security Fund, to date no information has been received concerning cases of mismanagement, embezzlement and misappropriation of funds donated by foreign entities to the Fund.<sup>18</sup>

154. As regards internal auditing, it should be noted that since the promulgation of the General Internal Audit Act in 2002, CCSS has adopted the following measures for the gradual consolidation of its own internal audit system:

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<sup>18</sup> By way of clarification, it should be noted that between 1996 and 2002, the Costa Rican Social Security Fund administered two international loans (not external donations), the details of which are as follows:

(a) The loan awarded by the Government of Spain for the purchase of various types of medical equipment referred to as “the Spain Project”, Act No. 7683 of 20 August 1997 (National Programme for the Renovation of the CCSS Hospital System, International Public Bid No. 97-01). On that occasion two external loans were granted, each for the sum of \$20 million by Banco Bilbao Vizcaya S.A. and Instituto de Crédito Oficial del Reino de España.

(b) The loan granted by the Government of Finland for the purchase of medical equipment, referred to as the Finland Project, Public Bid LP-GMD-001-2002, with which a total of 21 items were purchased, corresponding to 3,037 pieces of medical equipment, at a total cost of \$39,496,831. The loan from the Government of Finland was approved by the Legislative Assembly on 13 December 2001, in accordance with Executive Decree No. 8202 (published in the Official Journal *La Gaceta*, supplement 88 B of 27 December 2001), entitled “Approval of the Agreement between the Ministry of Foreign Affairs and Worship of the Republic of Costa Rica and the Ministry of Foreign Affairs of Finland and the Credit and Cooperation Agreement to Fund the Modernization of Hospital Equipment, between CCSS and Banco Sampo PLC of the Republic of Finland”. The bid was awarded to the company Instrumentarium Corporation-Medko Medical, represented in Costa Rica by Fischel R. & Cía S.A.

In 2004, the national press made allegations of corruption in connection with both loans, concerning the payment of commission or bonuses to officials linked to the supplier companies. The authorities identified the persons allegedly responsible and both cases are currently being heard in the courts.



- (a) Entrusting the Administrative Systems Directorate with the task of overseeing the technical aspects of developing the strategies required to consolidate the Fund's internal audit system, and establishing within the Directorate the Internal Audit Department as the body in charge of strengthening this area;
- (b) Drafting and approving the Fund's internal audit policy, as a reference framework for developing strategies;
- (c) Establishing the Fund's Internal Audit Commission, with representatives from different division offices and higher managerial levels, as the persons responsible for strategic leadership. In this context, the role of internal audit "facilitator" has been introduced in all CCSS units, to act as the focal point for internal auditing at all levels and to assist his/her immediate supervisor in implementing strategies;
- (d) Conducting self-assessment of internal auditing every year with a view to assessing the effectiveness of audits; designing and introducing technological aids which facilitate the implementation of strategies to strengthen the internal audit system;
- (e) Training in internal audit, instituting procedures and risk assessment for employees and sharing experiences with other public bodies to acquire new skills and evaluate the degree of progress made in comparison with other institutions.

155. In addition, goods and/or funds donated by third parties are subject to institutional controls, such as the Regulations governing the handling of donations to the Costa Rican Social Security Fund, and the Administrative accounting procedure, donation from the Government of China (Taiwan) to the Government of Costa Rica for the rehabilitation of the medical services of the Dr. Rafael Angel Calderón Guardia Hospital.

***Question 23. The Committee has been informed that 75 per cent of air pollution in the State party is caused by smoke emissions from vehicles. Please indicate what measures the State party is undertaking to address this problem.***

156. The State has introduced an emissions control system in order to reduce environmental pollution caused by automobiles. In this connection, proposals have been made for urban renewal in the greater metropolitan area.

157. Among other things, in 2006 preliminary steps were taken to obtain the necessary resources from the Central American Bank for Economic Integration and State-run banks in order to begin work on the reorganization of public transport.

158. The plan is to reorganize San José's arterial roads into nine main sectors. This will mean fewer vehicles entering the city, thereby reducing pollution and the travel time for the million citizens who commute daily by bus to the capital.

159. Since the beginning of 2006, a plan has also been under way to decongest the city by restricting access to certain avenues and streets, allowing entry to vehicles at certain times based on the last digit of their registration plates.

160. Another major urban planning project has been the reintroduction of intercity train routes, which has helped to reduce the use of other means of public transport and private vehicles.

161. In addition, provisions on vehicle inspections<sup>19</sup> require every automotive vehicle in the country - including those used for public transport such as buses and taxis - to undergo an annual roadworthiness test to verify compliance with a set of quality and efficiency standards. One such standard relates to exhaust emissions. Vehicles that do not meet the requirement for low carbon monoxide emissions are prohibited from circulation, as they fail the roadworthiness inspection and are not issued with an annual circulation permit (“*marchamo*”). The ultimate aim of the exhaust emissions test is to protect the environment and reduce air pollution, especially in the greater metropolitan area.

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<sup>19</sup> Article 19 of the Act on Overland Transport on Public Roads reads as follows: “Article 19: The vehicle registration card shall be issued only for those vehicles that meet the conditions in respect of mechanical qualities, safety, pollution emissions and other requirements set out by this Act and its Regulations. The Ministry of Public Works and Transportation shall verify compliance with such requirements by means of partial or complete vehicle inspections.

‘Vehicle inspections’ shall mean the mechanical verification of the state of the vehicle and its pollution emissions as set out in this Act. The two verifications may take place at the same time or separately, with at least the following frequency:

- (a) Every six months, for automotive vehicles used for public passenger transport;
- (b) Once a year, for automotive vehicles that are over five years old, except for those covered by (a);
- (c) Once every two years, for automotive vehicles that are five years old or less, except for those covered by (a).

Without prejudice to the above, compliance with the provisions of articles 31, 33, 34, 35, 36 and 37 of this Act may be verified at any time and on any public road in the national territory.

Complete or partial inspections shall therefore be carried out in places designated and authorized by the Ministry of Public Works and Transportation by means of a public call for tender, in accordance with the objective and general parameters set out in the Regulations. The tender process shall encourage the acceptance of as many bidders as possible, without prejudice to the inspections that shall be carried out on the public roads. In coordination with the Ministry of Public Education, the Ministry of Public Works and Transportation shall promote and support the involvement of vocational schools in the vehicle inspection programme referred to in this article.

(As amended by article 1, paragraph 1, of Act No. 7721 of 9 December 1997.)”

### Articles 13 and 14: The right to education

**Question 24. Please provide detailed information on measures undertaken to increase enrolment and attendance rates in primary and secondary schools, reducing the high dropout rate of students, in particular in rural areas, and to address the lack of school infrastructure in these areas. Please provide disaggregated data on the school dropout rates on an annual basis.**

162. The Ministry of Public Education, in accordance with its mission and objectives, in line with its lead role in the education system and bearing in mind that education is an effective mechanism for social mobility and human development, has carried out activities to improve primary education and to broaden and strengthen secondary education. The aim is to provide young people with an education that, in addition to giving them the opportunity to study, is also attractive, motivating and interesting, and is tailored to their needs and capabilities, so as to ensure that they are successful in school and remain in the formal education system.

163. Many of these activities are explicitly or implicitly geared towards extending coverage and improving the dropout rate, i.e. significantly reducing the numbers of children and adolescents who leave the education system. Among the programmes and projects developed by the most recent government administrations using various educational models, the following are worthy of note:

164. **Open Classrooms Project:** This is an awareness experiment carried out in the first and second cycles of education addressing the needs of children and adolescents who are at risk. It targets both those who have fallen behind in the education system and dropouts. In 2006, the project was carried out in 186 schools and covered 6,232 pupils.

**Distance learning secondary programme (“Telesecundaria”):** This programme brings third cycle courses to young people in rural areas where it is difficult to attend secondary school. It is carried out by distance-learning teachers using television, videorecorders and printed and video materials.

165. In 2006 there were 139 centres in operation, with 6,867 registered students, in 20 regional departments.

**Promotion of equity in education:** The fundamental purpose of this programme is to ensure that education continues to be an effective mechanism for social mobility and human development. Efforts are thus carried out to make educational services accessible to economically disadvantaged groups and to avoid discriminating against them in the provision of such services.

166. Accordingly, the **National Scholarship Fund (FONABE)** has been strengthened in terms of both increasing the number of beneficiaries and improving the response time for paying grants. According to FONABE, in 2006, 66,585 students received regular grants. In addition, the **free school transport service** for young people living in isolated rural areas has a budget for the 2007 school year of 649,429,750 colones, subsidizing fares for a total of 5,886 secondary students. For the same year the transport grants system administered by FONABE has a budget

of 2,555,246,179 colones for a total of 22,357 grants (including 268 for special education students). For the most part, it is used to help scholarship beneficiaries cover the costs of their transport to school.

167. In addition to the transport grants service, considerable resources are allocated every year to pay for school bus routes. In 2006, service was provided on 582 bus routes at a total cost of 6,619,239,974.15 colones. The budget earmarked for 2007 amounts to some 7,210,148,453 colones, and will cover transport for 55,468 students.

168. In addition to the regular grants programme, there is an **Initial Grants** programme (previously called the “school voucher”), intended as another means of ensuring equity in education. It is targeted at economically disadvantaged students, to help them cover the cost of schooling at the beginning of the school year. According to FONABE, in 2006, 63,067 pupils throughout the country received the Initial Grant (the school voucher).

169. Pending the Board’s decision on certain policies and criteria governing the amounts earmarked for students, the same coverage is planned for 2007.

170. Alongside the grants and transport service, the **school lunch programme** provides food for disadvantaged children in primary and secondary school. According to data from the Food and Nutrition for Schoolchildren and Adolescents Division (DANEA), in May 2007 a total of 604,193 students were benefiting from this programme, which required an investment of some 8,506 million colones.

171. **Ethics, aesthetics and civics: Integrated education to develop life skills and learn to live with others:** The aim is to enhance the teaching of ethics, aesthetics and civics to students at all levels and in all forms of education. This includes plans to extend coverage in the arts, music and physical education at the primary level by increasing the number of teaching posts, training staff and providing resources.

172. **Teacher incentive scheme:** The aim is to uphold the quality of education by improving teachers’ conditions of employment. The scheme includes the following incentives for teacher development:

- **Teaching development incentive.** A pay rise of 8.33 per cent of total salary, granted to all employees;
- **Extended schoolyear incentive.** A bonus of 163 per cent of total salary is paid in September each year for uninterrupted service for 200 actual days of instruction.
- **Work in less developed areas incentive.** The aim is to support education activities in the country’s less developed areas and thus to close the gap with the more developed areas. There are two types: for areas with a low social development index (SDI), 40 per cent of total salary, and for those with a very low SDI, 50 per cent of total salary.
- **Location incentive.** This is a fixed bonus paid to teachers who work in schools where they face varying degrees of hardship in the most remote areas of the country.

### ***Avancemos* (“Let’s get ahead”) programme**

173. The objective of this programme is to keep poor adolescents in school so that they have the opportunity in the future to overcome their situation, i.e., to help them break out of the generational cycle of poverty.

174. This is a selective programme providing conditional cash transfers, to families living in situations of poverty, vulnerability, risk or social exclusion, so as to enable their teenage children to stay in school and complete their secondary education.

175. In addition to all these activities, it should be emphasized that every academic year, the Ministry of Public Education makes significant efforts to create educational institutions and services to meet as far as possible the needs of the school-age population. As can be seen in the table in the annex, the number of educational institutions has risen every year. The only exception is for night schools, where a decline in demand is beginning to be felt.

### **1.3 Other activities**

176. In addition to the Ministry’s general activities, other important efforts are being made to keep young people in the education system, such as those of the National Teaching Centre (CENADI) and the Student Life and Guidance Counselling Department.

177. CENADI has developed activities such as the “Grade 7 Quality Improvement Project”, which inter alia has the aim of “bringing together the efforts of the school community, parents and the Ministry of Public Education to improve the academic performance of students in grade 7”. The project was launched in different regions of the country in 2001.

178. The Guidance Counselling Department carries out specific activities at schools aimed at instilling in students the values, attitudes and behaviour that will give them the arguments and tools they need to develop their full potential as young people and, fundamentally, as individuals with their own characteristics, concerns and needs.

179. In addition to activities to enhance students’ self-esteem and values, the Department has focused on institutional efforts to address problems such as violence and drug abuse, which largely account for the deterioration in young people’s lives and that of society in general. The Ministry has taken action for example in the form of the National Plan to Prevent and Address Violence (implemented by the Violence Prevention Commission of the Ministry of Public Education) and the National Education Plan against Drugs (carried out by the Ministry’s Guidance Counselling Department and other services, including those dealing with adult education, religion, special education, preschool education, student cooperatives and the National System for the Improvement of the Quality of Education (SIMED)), as well as the “Finding the way” and “If that’s alcohol, count me out” programmes.

180. Under the 2002-2006 administration, the education authorities, bearing in mind that one of the four key themes of the development of education set out in the Monsignor Víctor Manuel

Sanabria National Development Plan was the “development of education opportunities to ensure equality in access to school, staying in school and success in school”, adopted a strategy known as the “War against dropping out” to reduce the drop-out rate at the various levels of education. Activities included institutional plans tailored for students at risk of dropping out, and enhancing educational programmes promoting the inclusion of people with special education needs. Pupils and students living in poverty or extreme poverty were targeted by equity programmes, while improving school canteens, education vouchers and student grants and transport programmes.

181. As can be seen from this brief overview of the work done by the Ministry of Public Education to increase enrolment at the different stages of education, considerable effort has been made at various levels. However, as there are many underlying reasons for the drop-out rate, it remains one of the major challenges that must be taken into account in order to improve the Costa Rican education system.

### **Measures to address the lack of infrastructure**

182. School infrastructure is a major problem facing the Costa Rican State. Every year a major effort is made to try to meet the needs of schools in this field. In the five years up to 2007, the Ministry of Public Education significantly increased investment in infrastructure, from 5 billion to 14 billion colones.

183. A new system for the awarding of contracts has been developed to streamline administrative procedures.

(a) In 2006, 1,240 infrastructure works were funded, both for the construction of new infrastructure and for maintenance. In the first half of 2006, Administrative Councils and Boards of Education received a total of 2,839 million colones for the construction and maintenance of education facilities and for land purchases. In the second half of the year the amount came to 3,793 million colones, which made it possible to allocate budgets for 165 classrooms, 37 toilet facilities and 65 miscellaneous other projects and maintenance works. The total for the year came to 6,631 million colones;

(b) For 2007 there is a budget in the order of 13,678 million colones for the construction and maintenance of educational facilities and land purchases, and the necessary field studies have been carried out to meet the most urgent needs first. Among these, funding for 1,131 works has already been set, as follows: 771 classrooms, 192 toilet facilities, 129 school canteens and 49 maintenance works, for an overall investment of 10,447 million colones. Emphasis is being placed on cases that are urgent for sanitary reasons or because of hazards (such as unsafe electrical installations) or overcrowding;

(c) For 2006, 48,000 desks were purchased through a national budget outlay of 613.6 million colones. For 2007, 1,224 million colones has been budgeted, which will make it possible to purchase 80,000 desks.

***Question 25. Please provide information on the State party's efforts to improve the quality of education for indigenous peoples, in particular by providing teaching and learning materials***

184. There is legislation at all levels providing for contextualizing curricula to meet the sociocultural needs of indigenous peoples. Certain laws, decrees and resolutions are worth mentioning, as is the ratification of international conventions, as follows:

- The Day of Cultures Act, No. 7426, of 21 September 1994;
- Decree No. 22612-MEP (1993) issued by the Ministry of Public Education, Division for Curriculum Development, establishing the Indigenous Education Subsystem;
- Ratification, with constitutional force, in July 1992 of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of ILO, which includes a chapter on education;
- Amendment of article 76 of the Constitution to provide that Spanish is the official language of the nation, but that the State shall ensure the preservation and development of the national indigenous languages;
- Agreement on the curriculum for the first and second cycles of basic general education, adopted by the Higher Council for Education at session No. 34-97 of 8 May 1997. The agreement contains a section on contextualized education in indigenous schools, including aspects such as mother tongue, indigenous culture and environmental education;
- Act No. 7669 of 5 May 1997 declaring a National Day in Honour of Cacique Pablo Presbere, defender of indigenous peoples (1704);
- Agreement on a proposal for a curriculum and programmes for courses on culture in the third cycle of basic general education in the secondary school in Boruca adopted by the Higher Council for Education at session No. 47-99 of 10 June 1999. The agreement contains a section on contextualized education in indigenous schools, including aspects such as mother tongue, indigenous culture and environmental education;
- Executive Decree No. 23489 (1995) establishing the Department of Indigenous Education: defines the Department's mission, functions and activities, which are aimed at providing differentiated education for indigenous peoples.

The Ministry of Public Education, through the Department of Indigenous Education, has implemented the following programmes:

- A transversal approach to education;
- Contextualization of first and second cycle curricula;
- Environmental education;

- Language, oral literature and grammar;
- Culture, moral values of the indigenous world view;
- Training (methodologies, related innovations);
- Human resources: a recruitment and selection process for staff to work in indigenous areas, taking specific sociocultural needs into account;
- Preparation of the relevant teaching materials.

185. To date, there are two secondary schools located in indigenous communities: Sulayöm secondary school in Talamanca, and Boruca secondary school, with respective enrolments of 150 and 200.

186. Three agreements have been concluded between universities and the Ministry of Public Education for the vocational and academic training of indigenous teachers working in 22 indigenous territories, with the aim of ensuring stable employment and career prospects.

187. This academic training should equip teachers to propose, support, research and develop teaching plans in the field of ethnic diversity in a multilingual and multicultural environment, and to manage the intercultural dimension in education in each region. An overview of these efforts is given below:

- A national Indigenous Races Protection Board was established in 1944, with Doctor of Anthropology Doris Stone as its chairperson. In 1945 the first text was written in the Cabécar indigenous language by Pozas Arciniegas: *Yis Ma Ishö* (“I Will Say”). In 1946 the Costa Rican State for the first time issued a decree on the establishment of the Indigenous Races Protection Board;
- In 1979 the first diploma agreement on the training and qualification of indigenous teachers was signed between the University of Costa Rica and the Ministry of Public Education. Courses were given at two sites: Buenos Aires, in Puntarena province, and Bribri-Talamanca, in Limón province. In 1983 the first education degrees were awarded with a specialization in indigenous education;
- From 1979 to 1983, a second diploma agreement was concluded between the National University of Costa Rica (UNA) and the Ministry of Public Education;
- In 1980 an indigenous advisory service was established under the Adult Education Department of the Ministry of Public Education;
- In 1981, a text entitled *Yëjkuö alattsítsi - a* (“Roles for children”) was written in the Bribri language as a result of the training of indigenous teachers in Talamanca under the direction of the linguist Patricia Gudiño;
- Between 1995 and 1997 a third agreement was concluded between UNA and the Ministry of Public Education;



- A fourth agreement was signed between UNA and the Ministry of Public Education on Bachelor's degrees for the training of teachers specialized in indigenous education. It is extremely important to conclude such agreements, as indigenous children deserve to be taught by qualified professionals with a high level of academic training.

### **Production of literature**

188. Since 1980 a great deal of literature has been produced, including material published by the Ministry of Public Education in coordination with the United Nations Educational, Scientific and Cultural Organization (UNESCO):

- Primers and first readers written in various languages, such as Cabécar, Bribri, Maleku, Guaymí and Boruca;
- Reprints of primers and first readers in the various languages (Cabécar, Bribri, Maleku, Guaymí and Boruca) by the Canadian Embassy, 2005;
- Publication of research by the University of Costa Rica (literature, music);
- Publication of material by the State Distance Learning University (UNED): videos by Alfredo González;
- Indigenous educators received education science degrees at the Diploma, Bachelor's and Master's levels, with a specialization in education administration, inter alia at the University of Costa Rica, UNA, UNED and the Latin University of Costa Rica (UNILAT);
- Appointment of tenured teachers in 22 indigenous regions;
- Between 1990 and 1994, improvement of curricula to bring them into line with the context and sociocultural needs of indigenous peoples;
- In 1995, establishment of the Department of Indigenous Education in the Ministry of Public Education;
- Five regional indigenous advisors (Talamanca, Turrialba, Pérez Zeledón and Coto);
- Official Journal (“*La Gaceta*”), Decrees Nos. 23489 and 23490 of the Ministry of Public Education. Contextualization of education for indigenous schools;
- 1976, literature produced by the University of Costa Rica. *Yëtkuö Biyöchökname*, and translations;
- Emergence of indigenous writers (stories, narratives), an original worldview;
- Examples of such literature include: Rito Stewart Morales, *La Semilla de Sibö* (Seed of Sibö), Rito Stewart M., *Maestro Ta Sa u-a*, ICER (Costa Rican Institute for Radio Education);

- Alí García Segura, *Plantas de la Medicina Bribri* (“Bribri Medicinal Plants”), University of Costa Rica Press, 1994;
- Alí García Segura, Alejandro Jáen, *Ies Sa Yilite*, (Our origins), Spanish cooperation agency, 1996 (Bribri stories);
- Alí García Segura, Carla Jara, Ko Keska, *El lugar del Tiempo* (The place of Time), with the Spanish cooperation agency, 1996, Bribri stories;
- Severiano Fernández T., Valeria Varas, *Historias Cabécares* (Cabécar Stories) I and II, University of Costa Rica, 1989, Indigenous literature;
- José Feliciano Elizondo Figueroa, Henry Rojas, *Terbi y el Abuelo* (Terbi and Grandpa), translation into Bribri;
- Juanita Sánchez, Gloria Mayorga, *Costumbres y Tradiciones Indígenas* (Indigenous Customs and Traditions), UNESCO, San José, 1993;
- Noemy Mejía Marín, teacher who contributed to the preparation of texts in the Maleku language;
- Franklin Morales Morales, itinerant teacher, writes poems in the Bribri language;
- Apolinario Zúñiga Z., Cabécar teacher, writes poetry;
- Javier Montezuma, itinerant teacher, collects and records oral traditions;
- The Local Educational Technical Support Committee has produced several texts and primers in Talamanca *Circuito 07*, and is also developing a curriculum based on plans and programmes in the Bribri language;
- A primer in the Cabécar language, in Talamanca *Circuito 07*.
- Publication of *Sa Ña Yuwä Sa Siwawa - Estudiemos Cabécar* bilingual textbooks (Cabécar-Spanish), with support from a Swedish Christian foundation, 2006.

### **Infrastructure**

189. Under the Programme to Improve the Quality of Education (PROMECE), some significant infrastructure projects have been carried out in indigenous areas. In recent years this has been done in accordance with the needs and perspectives of the indigenous peoples, taking architectural symbolism into account and making use of the region’s material and human resources.

### **Teaching of indigenous languages**

190. In 1946 the first primer was published to teach literacy in an indigenous language, Cabécar. From that time through the 1970s, textbooks designed for indigenous children and teachers were published to teach Spanish-language reading and writing.

### **Contribution of universities**

191. In the 1980s, the Linguistics Department was established at the University of Costa Rica. From the outset, it has carried out fundamental work for the research, dissemination and teaching of indigenous languages and literature. As a result practical alphabets have been devised for writing in the various indigenous languages. Grammars and dictionaries have been developed, texts from the oral tradition have been rigorously and systematically compiled, and aspects of indigenous cultures have been recorded. These resources have made it possible to produce more educational materials, both for teaching indigenous languages as second languages and for reading and writing instruction in such languages.

192. These texts have been produced with the participation of both university specialists and indigenous teachers and community members, with the support of UNESCO and NGOs.

### **Teacher training**

193. As from 1985, activities to revitalize and disseminate indigenous languages have been firmly incorporated in the educational services provided in such communities. To that end, teachers working in the indigenous communities had to be provided with the necessary training.

194. From 1986 to 1988 the University of Costa Rica, in coordination with the Ministry of Public Education, developed a training plan for teachers in indigenous communities. Training was dispensed to teachers already in service, most of whom had had no university background and nearly all of whom were very young and inexperienced.

195. Projects of this kind have been implemented in several Boruca, Guaymí, Maleku and Bribri communities. A project is currently being carried out in the Bribri communities in Talamanca.

### **Current teaching of indigenous languages**

196. Since 1993 the Ministry of Public Education has hired members of the communities to work as indigenous language teachers at several schools in their territory. The experiment began with a Boruca language teacher, with coverage being extended over the years.

197. This year, the service is available at 90 of the country's 134 indigenous schools, and at the only 2 existing secondary schools, representing coverage of 67 per cent. At the secondary schools, the Bribri and Cabécar languages are taught.

198. The teachers have the following tasks:

- To teach children to speak the indigenous language if they do not already speak it;
- To teach literacy in the indigenous language;

- To promote knowledge and practice of the culture’s customs and traditions, reinforcing those that are being lost;
- To promote knowledge of traditional literature;
- To assist regular teachers in the transition from the indigenous language to Spanish in communities where the mother tongue is an indigenous language and children are monolingual when they begin schooling;
- To carry out activities and implement curricula designed to develop children’s vocabulary, thought processes and knowledge of their mother tongue.

199. The tasks of the language teachers vary depending upon whether they are teaching an indigenous language as a first or second language. Some schools, however, may include both pupils who are monolingual in an indigenous language and Spanish-speaking monolinguals.

200. The Higher Council for Education included the following provisions in resolution 34-97 of 8 May 1997, in which it adopted a new curriculum for primary education:

“For indigenous schools, the programme shall comprise two main elements: the basic national curriculum that applies throughout the national territory, and the three components of the indigenous education programme, as follows: the indigenous language (of the region), the indigenous culture and environmental education. The curriculum shall include: the indigenous language, taught by an itinerant teacher three hours per week; the indigenous culture, taught in two lessons per week by a member of the community; and the environmental subjects, taught under the direction of the class teacher.”

***Question 26. What measures is the State party undertaking to improve access to the supply of water for indigenous peoples?***

201. To improve the quality of life of the country’s indigenous peoples, the Costa Rican Water Supply and Sewerage Institute (AyA) will have to face major challenges, one of which is the provision of drinking water without any form of discrimination, given the lack of a focus on indigenous peoples in Costa Rican policies in the past. In Costa Rica, indigenous peoples have not been guaranteed quality services enabling them to enjoy better living conditions, as public policies have not been as inclusive as they might have been. Only partial and temporary solutions have been applied, and have been insufficient to adequately address the problems that have arisen in the communities. AyA has thus given priority among its policies to ensuring that indigenous peoples have access to drinking water. It is the Rural Water Supply Rehabilitation Programme that has served as the basis for specific measures aimed at ensuring that indigenous communities have equitable access to drinking water.

202. Objective 2 of the Rural Water Supply Rehabilitation Programme reads as follows: “To carry out planning and financing measures so as to reduce the gap in the provision of the public service in rural areas, giving priority to communities that have no water supply system, to indigenous communities and to water supply systems that provide surface water without treatment.”

203. The strategies to achieve this programme's objectives include several activities, of which the following is relevant here: "Support for the 24 indigenous territories, through a differentiated strategy taking the cultural and geopolitical environment into consideration, in a permanent programme."

204. All these activities will be carried out through the Rural Water Supply Department, which covers implementation of the Small and Medium Enterprises Programme for Water Management and the coordination and planning of funds from international cooperation activities such as the Social Development and Family Allowance Fund (FODESAF), Kreditanstalt für Wiederaufbau (KfW), UNDP and others.

205. Currently, rural water supply systems are delegated to indigenous communities through a delegation agreement, under which AyA undertakes to respect the right of the indigenous community to maintain its customs and institutions, provided that they are not incompatible with the domestic legislation, and that procedures are set up whenever necessary to resolve conflicts that may arise in the application of this principle. The above shall not prevent community members from exercising the rights that are recognized for all the country's citizens and from assuming the corresponding obligations. In its relations with the indigenous communities, AyA is obliged to apply the principles and provisions of the Indigenous and Tribal People's Convention, 1989 (No. 169) of ILO. These organizations will be responsible for the administration of the systems, applying AyA standards. The rural water supply systems may thus be delegated directly to Indigenous Development Associations (ADIs) or to Water Supply and Sewerage Administration Associations (ASADAS), which may be established with the authorization of the ADI, provided they meet all the requirements legally established for this purpose.

206. Reducing the number or the proportion of people without access to safe drinking water is a global challenge that is recognized in the Millennium Development Goals for 2000-2015, and is one of the country's main priorities. Accordingly, access to drinking water is an objective of the social policy set out by the 2006-2010 National Development Plan under the chapters on social policy, health and poverty alleviation.

207. Faced with such a challenge, and as an example of the implementation of this priority policy, AyA, working jointly with UNDP, has carried out activities in the framework of technical and non-reimbursable financial cooperation for national development. It has formulated, executed and implemented a project entitled "Development of skills for men and women in the administration, operation and maintenance and sustainability of drinking water and sanitation systems, through the implementation of a pilot plan in the indigenous areas of Alto Chirripó, Talamanca, and Ujarrás, in Buenos Aires, Puntarenas, Costa Rica."

208. The project will develop a methodology for integrating and training indigenous communities so that they can effectively and efficiently manage water resources at the local level, with a focus on awareness, social feasibility and instruction in the administration, operation and maintenance and sustainability of drinking water and sanitation systems. The project will initially be implemented by means of a pilot plan in the following indigenous territories: Ñari Ñak, Tsiniclori or Roca Quemada, Paso Marcos, Alto Ñari, Villa Damaris and Ujarrás (territories in which AyA is already carrying out works) taking the economic, social, environmental and cultural context into consideration.

209. The direct beneficiary population numbers some 27,032, living in the indigenous territories and belonging to the eight indigenous groups: Bribri, Boruca or Brunca, Huetar, Guaymí, Térraba or Teribe, Chorotega, Guatuso and Cabécar.

210. The project cost is US\$ 86,552.84, with UNDP contributing US\$ 50,505.64 and AyA US\$ 36,047.20. The project implementation period is five months, from August to December 2007.

211. The project will in turn strengthen the indigenous communities service programme of the Rural Water Supply Department of AyA. It is also in keeping with the strategies that AyA will implement for the indigenous communities.

212. Implementation of this project will yield benefits both for the institution and for the indigenous communities directly or indirectly involved, and ultimately for the country. Benefits include the following:

- The quality of life of indigenous peoples will improve as health risks are reduced, and the project will contribute to social and economic development at the local level;
- The indigenous communities will be able to acquire the necessary knowledge, skills and expertise for the administration, operation and maintenance and sustainability of drinking water and sanitation systems, taking the gender dimension into account;
- The project will further the achievement of institutional objectives (set out in the 2006-2010 National Development Plan and the Millennium Development Goals) in line with the targets set, inter alia for vulnerable groups, under articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights (the right to an adequate standard of living and the right to the highest attainable standard of physical and mental health).

***Question 27. According to information received, the total expenditure on education has decreased between 2001 and 2004. What has happened since then, and what measures has the State party undertaken to address this issue?***

213. Overall investment in education did not decline between 2001 and 2004. While the percentages of public spending and gross domestic product (GDP) devoted to education fell, investment levels actually increased.

214. The Costa Rican Government has always attached special importance to the funding of the education system, which is reflected in the increasing budgets allocated to that sector, notwithstanding the economic crises that the country has faced at various times. The economic crisis of the 1980s affected the education sector, though to a lesser extent than the other sectors of the Costa Rican economy. Nonetheless, spending on education was quite unstable during this period. There has historically been a sustained increase in investment in education, in both nominal and real terms.

215. In 1979 the Ministry of Public Education received 28.1 per cent of the central Government's budget. In 1982 this proportion began to decline, reaching its lowest point

in 1986, at 19.1 per cent, and subsequently rose steadily, with percentages over 23 per cent. In 1998 it was over 26 per cent, and in 2005 it rose above 30 per cent. The growth rate of spending by the central Government exceeded growth in the budget of the Ministry of Public Education until 1995, when it was decided to allocate more resources to the education system. The current figures reflect the clear interest of the budgetary authorities in increasing the share of public spending for education. It now represents 47.5 per cent of central Government spending, exclusive of public debt payments and pension disbursements.

216. Table 1 presents the figures for the national budget, the budget of the Ministry of Public Education and GDP for selected years between 1979 and 2006. As from 2001, GDP was calculated using a different methodology, resulting in a drop in the share of education spending. To remedy the situation and ensure compliance with article 78 of the Constitution, an executive decree was enacted, providing for a gradual increase in education expenditure as a percentage of GDP. For 2005, the increment was 60 per cent of the recalculated figure.

**Table 1**  
**Proportion of central Government expenditure and of gross domestic product allocated to the Ministry of Public Education (million current colones)**

Year	Central Government	Ministry of Public Education	GDP	Ministry of Public Education/Central Government	Ministry of Public Education/GDP
1979	7 358.4	2 064.4	31 431.0	28.1	6.6
1980	8 971.7	2 297.9	41 405.5	25.6	5.5
1982	15 426.7	4 105.7	97 505.1	26.6	4.2
1985	36 009.1	8 006.5	184 063.3	22.2	4.3
1990	107 070.2	21 772.7	522 925.3	20.3	4.2
1992	180 478.9	36 806.2	1 153 204.7	20.4	3.2
1994	306 194.4	56 690.4	1 658 236.5	18.5	3.4
1995	370 384.6	70 738.2	2 105 687.0	19.1	3.4
1996	413 864.7	96 280.0	2 459 957.0	23.3	3.9
1997	465 482.3	112 070.0	2 984 019.8	24.1	3.8
1998	548 936.2	145 617.5	3 626 830.0	26.5	4.0
1999	663 077.8	177 567.0	4 512 763.3	26.8	3.9
2000	761 305.8	205 360.0	4 914 498.2	27.0	4.2
2001	882 271.6	243 514.5	5 394 595.4	27.6	4.5
2002	1 068 113.5	287 142.0	6 060 878.2	26.9	4.7
2003	1 173 060.7	343 619.9	6 982 287.5	29.3	4.9
2004	1 329 851.9	398 136.2	8 126 746	29.9	4.9
2005	1 521 590.0	455 940.5	9 565 678.4	30.0	4.8
2006	1 798 419.7	536 086.8	11 180 278.7	29.8	4.8
2007*	2 168 086.7	678 608.8	12 915 494.7	31.3	5.3

*Source:* Budget accounts, Ministry of Finance. Central Bank of Costa Rica: Calculation of GDP, 1991 methodology.

\* Figures under the approved budget.

217. The ratio between the budget for the Ministry of Public Education and GDP is still far from its 1979 level. As a percentage, it remained at around 4.3 per cent in the late 1980s and early 1990s. Since article 78 of the Constitution was amended to provide for the obligation to devote an amount equivalent to 6 per cent of GDP to education, this figure should have risen gradually. However, it has fallen markedly in some years. In 2003 and 2004 the share peaked at 4.9 per cent, even taking into account the revised GDP estimates for 2005 and 2006. The 2007 budget adopted by the Legislative Assembly allocated 5.3 per cent of GDP to education. If the correction coefficient is applied, the appropriation amounts to 6 per cent of GDP, thus meeting the constitutional requirement.

218. If the amount is adjusted to take account of the effect of inflation, which reduces purchasing power, on budget growth, then it will be seen that despite the variation in the share spent on education, expenditure has risen every year since the decline between 1979 and 1980. This upward trend reflects the concern to increase the education budget and control inflation.

**Table 2**

**Central Government expenditure and expenditure  
of the Ministry of Public Education  
(million constant colones)**

Year	Central Government	Per cent increase	Ministry of Public Education	Per cent increase
1997	1 322 111.2	-	318 312.9	-
1998	1 282 613.0	-3.06	339 976.3	6.8
1999	1 406 713.4	9.76	376 706.7	10.8
2000	1 455 582.0	3.47	392 639.0	4.2
2001	1 516 212.8	4.17	418 487.7	6.6
2002	1 681 450.6	10.90	452 026.0	8.0
2003	1 688 849.4	0.44	494 707.8	9.4
2004	1 703 064.2	0.84	509 870.0	3.1
2005	1 712 313.1	0.54	513 090.2	0.6
2006	1 815 607.5	6.03	541 210.3	5.5

*Source:* Based on table 1 and inflation as reported by the Central Bank.



219. Despite the high proportion of expenditure devoted to education, State resources are insufficient to cover all the needs of an education system that is constantly growing. There is still a need for more resources for teaching materials, and to remedy the historic deficit in education infrastructure, made worse by the impact of natural disasters.

**Article 15: Cultural rights**

***Question 28. Please indicate why the State party has not yet ratified the Indigenous and Tribal Peoples Convention (No. 169) of the International Labour Organization (ILO).***

220. This Convention has already been ratified by Costa Rica, by Act No. 7316 of 3 November 1992.

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