

Fourth Cycle of the Periodic Review of Costa Rica, to be held during the
47th session of the Human Rights Council

Situation of migrants and people in need of protection in Costa Rica

Presented by:

Asociación Centro de Derechos Laborales sin Fronteras de Costa Rica: Non-governmental organization, which aims to defend the rights of migrants, refugees, applicants, indigenous, Afro-descendants, and/or in vulnerable conditions. It advises, trains, and accompanies people for the free exercise of their rights.

Centro Claretiano de Atención al Migrante, Costa Rica (CECAMCR): Center for accompaniment, service, and defense of migrants who have been forcibly displaced in Costa Rica. Provides humanitarian, psychological, informational, and family liaison support. Facilitates orderly, safe, regular, and responsible migration and mobility. Establishes alliances with pro-migrant organizations.

Centro de Derechos Sociales de la Persona Migrante (CENDEROS): Non-profit, non-governmental organization that promotes human, economic, and social rights, citizen participation, and protagonist leadership of the migrant and cross-border population, as well as the Costa Rican population that shares the same condition of vulnerability.

Centro de Investigación en Cultura y Desarrollo (CICDE) of the Universidad Estatal a Distancia (UNED): Multidisciplinary and transdisciplinary scientific research unit, dedicated to research concerning the issues of culture, identities, processes of citizen organization, development projects, and globalization.

Center for Justice and International Law (CEJIL): Non-profit organization with more than 30 years of work in the defense of human rights in the Americas through strategic litigation,

advocacy, and communication. We use international human rights law and articulate actions with international and national organizations, maintaining the centrality of the victims.

Human Rights Collective for the Historical Memory of Nicaragua (Colectivo Nicaragua Nunca Más): Collective of human rights defenders that seeks to contribute to the processes of seeking justice, truth, reparation, and non-repetition, to the construction of historical memory and to the sensitization of Nicaraguan society, through documentation, communication, advocacy, monitoring, accompaniment of victims of human rights violations perpetrated by the Nicaraguan State, as well as education on human rights issues.

HIAS Costa Rica: Supports refugees to build new lives and reunite with their families in safety and freedom. Our programs target the most vulnerable refugees and migrants, providing a range of different services that empower people and create conditions to live in safety and dignity.

Institute on Migration and LGBTIQ Refuge for Central America IRCA CASABIERTA: Non-profit organization, that generates advocacy, research, training, and comprehensive psychosocial assistance, aimed at improving the quality of life and development opportunities for LGBTIQ populations, who are in forced migration and search of refuge in Central America.

Jesuit Migrant Service Costa Rica: Service of the Society of Jesus whose main purpose is to work with immigrants and their families by undertaking efforts to eliminate discriminatory practices.

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**Contribution to the fourth cycle of the Human Rights Council's Universal Periodic Review
(UPR) on Costa Rica
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1. This report is a contribution to the Fourth Cycle of the Universal Periodic Review (UPR) of Costa Rica, presented by the Center for Justice and International Law (CEJIL), the Center for Research on Culture and Development (CICDE) of the State Distance University (UNED), HIAS Costa Rica, the Human Rights Collective for the Historical Memory of Nicaragua (Colectivo Nicaragua Nunca Más), the Jesuit Service for Migrants Costa Rica, the Center for the Social Rights of Migrants (CENDEROS), the Claretian Center for Attention to Migrants - Costa Rica (CECAMCR), the Institute on Migration and LGBTIQ Refuge for Central America IRCA CASABIERTA and the Association Center for Labor Rights without Borders of Costa Rica (CDL-CR). The undersigned organizations have accompanied, advised, and represented people in situations of human mobility in Costa Rica and other civil society organizations working on human mobility issues. The report was prepared based on the documentation and fieldwork carried out by our organizations, as well as the review and monitoring of legislation, practices, and policies implemented by the Costa Rican State after the UPR of 2019.
2. Our contribution aims to provide recommendations based on a detailed analysis of the context of human mobility in Costa Rica, highlighting the various violations of the rights of persons in need of protection and migrants. In addition, the particular situation of migrant workers and Nicaraguan persons in need of protection in the country will be addressed.

I. The different forms of human mobility observed in Costa Rica

3. Costa Rica is a transit and receiving country for various mixed migratory flows, including the reception of people needing of international protection. In January 2023, 11.66% of Costa Rica's total population were migrants and persons needing of protection, making Costa Rica the country with the most foreign residents in Central America¹. The number of refugee applications in Costa Rica has increased over the last few years. In 2019, Costa Rica received 59,180 asylum applications; in 2022, 129,480, representing an increase of 119% in four years². From 2021 to the end of February 2023, 154,964 new asylum applications were received³. There are currently more than 200,000 pending applications⁴.
4. In recent decades, Costa Rica has hosted approximately 400,000 Nicaraguans, a figure that has increased due to various forms of persecution associated with the Ortega-Murillo

¹ General Directorate of Migration and Aliens. Annual statistical reports. Annual Statistical Reports, Available at <https://www.migracion.go.cr/Paginas/Centro%20de%20Documentaci%C3%B3n/Estad%C3%ADsticas.aspx>, last access: March 1, 2024.

² Monumental. Costa Rica is among the 5 OECD countries with the most asylum requests. Available at: <https://www.monumental.co.cr/2023/10/25/costa-rica-figura-entre-los-5-paises-de-la-ocde-con-mas-solicitudes-de-asiloo/> last access: March 7, 2024

³ General Directorate of Migration and Aliens. Annual statistical reports. Annual Statistical Reports, Available at <https://www.migracion.go.cr/Paginas/Centro%20de%20Documentaci%C3%B3n/Estad%C3%ADsticas.aspx>, last access: March 1, 2024.

⁴ Confidential. Costa Rica will attend refugee applications "with evidence" even if the one-month deadline expires. Available at: <https://confidencial.digital/migrantes/costa-rica-atendera-solicitudes-de-refugio-con-pruebas-aun-si-vence-el-plazo-de-un-mes/>, last accessed on March 2, 2024.

regime⁵. Thus, Costa Rica is the primary receiving country for Nicaraguans⁶, with 192,446 pending refugee applications and 10,963 recognized refugees as of November 2023⁷.

5. During 2023, about 479,000 people in transit were registered, and so far in 2024, more than 51,000 have been counted. Most of these people are Venezuelans who are moving from their home country. However, Costa Rica is also a transit country for thousands of people from the Caribbean, South America, and countries in Asia and Africa who cross its territory to continue to Mexico and the U.S.⁸ These people arrive from Panama in precarious conditions, facing urgent humanitarian and protection needs, particularly women and girls at risk or survivors of gender-based violence⁹.
6. Despite these figures, official statistics do not account for all groups in vulnerable situations and do not delve into the differentiated impacts on access to rights¹⁰. Documented information shows that 1 out of every three migrants in transit in Costa Rica are children or adolescents¹¹. However, no current figures can elucidate how many of these are in child labour¹². Also, 55% of migrants are women¹³ and of these, 60% have informal jobs. Regarding LGBTIQ+ migrants, it is estimated that this group represents up to 10% of the refugees in the country¹⁴.
7. It should be noted that there are also no precise figures on the number of temporary or seasonal migrant workers in the country. In this regard, the Special Rapporteur on

⁵ Freedom House. Defending human rights and democracy defenders and activists in Latin America. Available at: https://freedomhouse.org/sites/default/files/2022-01/Special_Report_LAC_HRDs_PDF_SPANISH_Final_01262022.pdf, last access: March 3, 2024.

⁶ Voice of America. More Nicaraguans are willing to emigrate to escape the crisis. Available at: <https://www.vozdeamerica.com/a/m%C3%A1s-nicaraguenses-est%C3%A1n-dispuestos-a-emigrar-para-escapar-de-la-crisis/7379357.html>, last accessed on March 3, 2024.

⁷ General Directorate of Migration and Aliens of Costa Rica. Costa Rican refugee system in figures. Available at: <https://www.migracion.go.cr/Documentos%20compartidos/Centro%20de%20Estad%c3%adsticas%20y%20Documentos/Estad%c3%adsticas/2023/Refugio/Estad%c3%adsticas%20a%20Noviembre%202023.pdf>, last access: March 10, 2024.

⁸ La Teja: Impressive video! 2,000 migrants enter Costa Rica daily on their way to the United States. Available at: <https://www.lateja.cr/sucesos/impresionante-video-2000-migrantes-ingresan-a-l3EOEPAORVA3TJVVTDT23DTUCI/story/>, last access: March 1, 2024.

⁹ HIAS. Cross-border protection monitoring: Colombia - Panama - Costa Rica - Honduras - Number 5, Available at: <https://reliefweb.int/report/colombia/monitoreo-de-proteccion-transfronterizo-colombia-panama-costa-rica-honduras-numero-5-agosto-octubre-2023>, last access: March 2, 2024.

¹⁰ Information we have identified through our field work.

¹¹ Semanario Universidad. Children migrate in record numbers exposed to child labor, begging and human rights violations. October 18, 2023. Available at: <https://semanariouniversidad.com/pais/ninos-migran-en-cantidades-record-expuestos-a-trabajo-infantil-mendicidad-y-vulneracion-de-derechos-humanos/> last accessed on March 4, 2024.

¹² Ibid.

¹³ Migration Costa Rica. National Integration Plan 2023-2027. Available at: <https://www.migracion.go.cr/Documentos%20compartidos/Políticas/Plan%20Nacional%202023-2027.pdf>, last access: March 1, 2024.

¹⁴ France 24. Central American LGBTI migrants find refuge in Costa Rica. Available at: <https://www.france24.com/es/20200813-migrantes-centroamericanos-lgbti-encuentran-refugio-en-costa-rica>, last accessed March 2, 2024.

contemporary forms of slavery, in his End of Mission Statement in Costa Rica, stated that "migrant workers are particularly vulnerable to contemporary forms of slavery in Costa Rica. Some have temporary work permits before arrival, but others do not and work irregularly"¹⁵.

8. In this context, we are concerned that specific measures and programs have been taken that may violate the rights of the migrant population in need of international protection. In June 2023, the U.S. Department of Homeland Security (DHS) announced the launch of the first "Secure Mobility Offices", the result of bilateral agreements with Guatemala, Costa Rica, and Colombia¹⁶. These offices are intended to expedite various procedures such as refugee resettlement, *parole* programs, issuance of work visas, and family reunification processes. The U.S. Department of State announced that only certain nationalities could be able to access the services of the new offices per country. Costa Rica, it was only accessible to persons from Nicaragua and Venezuela who were in the country before June 12, 2023, and had previously registered with UNHCR¹⁷.
9. The implementation of the offices and the provision of their services were characterized by uncertainty and a notable lack of clarity: it was not explained in advance how the centres would be operated, their procedures, nor what would happen to persons whose regular permits were denied¹⁸. We also note that this measure excluded migrants and persons in need of international protection of other nationalities transiting through Costa Rica. Also of concern is the lack of awareness of the Secure Mobility Offices among migrants in transit. According to a survey of migrants in the country, 60% (121 of 204 respondents) were unaware of the existence of this initiative. Moreover, among those who were informed, the main sources of information were unofficial channels, such as friends, relatives, and other migrants and people in need of international protection¹⁹.
10. On September 29, 2023, Costa Rican President Rodrigo Chaves issued a "national emergency" decree²⁰ in response to the increase in mixed movements and the limitations of the State to meet the needs of the migrant population. This measure sought to ensure more excellent human and economic resources to strengthen institutional capacity and

¹⁵ United Nations. End of Mission Statement to Costa Rica: Tomoya Obokata, Special Rapporteur on contemporary forms of slavery. November 25, 2022. Available at: <https://costarica.un.org/es/208822-declaraci%C3%B3n-de-fin-de-misi%C3%B3n-costa-rica-tomoya-obokata-relator-especial-sobre-formas>

¹⁶ US Department of State. U.S. Government Announces Sweeping New Actions to Manage Regional Migration. Available at: <https://www.state.gov/u-s-government-announces-sweeping-new-actions-to-manage-regional-migration/>, last accessed April 2, 2024.

¹⁷ VOA. These are the nationalities that will be able to access migrant processing centers. Available at: <https://www.vozdeamerica.com/a/estas-nacionalidades-acceder-centros-procesamiento-migrantes/7138711.html>, last access: April 2, 2024.

¹⁸ Information gathered through the work of our organizations.

¹⁹ Mixed Migration Center. Offices of Secure Mobility: Knowledge, Interest and Potential Influence on Mixed Migration Dynamics in Latin America and the Caribbean. Available at: https://mixedmigration.org/wp-content/uploads/2024/03/320_Safe-Mobility-Offices-Infographics_ES.pdf, last access: April 2, 2024.

²⁰ Executive Power. Decree N° 4419-MP-MSP. Ministry of the Presidency and Ministry of Public Security, Government and Police. Diario Oficial, la Gaceta Costa Rica, scope N°189 to Gaceta N°179. Available at: <https://www.cne.go.cr/recuperacion/declaratoria/decretos/Decreto%2044219.pdf>, last access: April 5, 2024.

guarantee "safe transit" for people in Costa Rican territory²¹. However, this declaration has a set of discretionary policy elements that raise concerns about border control and, in its current wording, could affect the right to seek asylum.

II. Lack of immigration regularization and excessive delay and impediments to the international protection recognition process

11. Irregular migration status is one of the main challenges to the integrating migrants into Costa Rican society²². By 2023, the number of people in an irregular migratory situation was estimated to be between 100,000 and 200,000²³. The National Household Survey reported that 87% of the people in an irregular situation would be of Nicaraguan origin²⁴. It has been identified that one of the most significant challenges to regularizing the situation of migrants is the high cost of the procedures, exacerbated by the economic vulnerability faced by the migrant population, which primarily affects women and children since priority is given to the regularization of their spouses who traditionally provide for the household²⁵.
12. Costs directly related to the asylum application process represent another barrier for refugees. For example, to process new asylum applications, an appointment must be scheduled through the official website of the Dirección General de Migración y Extranjería (DGME) or by telephone. Opting for the telephone route requires calling from a KOLBI line (the state-owned telecommunications company), at CRC 390 (approximately USD 0.63) plus taxes per minute²⁶. We have documented that getting appointments by either means is currently impossible.

²¹ Confidencial: What does the declaration of national emergency in Costa Rica for migrants in transit imply? Available at: <https://confidencial.digital/migrantes/noticias/que-implica-la-declaratoria-de-emergencia-nacional-en-costa-rica-por-migrantes-en-transito/>, last access: March 9, 2024.

²² General Directorate of Migration and Foreigners (DGME). National Integration Plan 2023-2027. Available at: <https://www.migracion.go.cr/Documentos%20compartidos/Políticas/Plan%20Nacional%202023-2027.pdf>, last access: March 8, 2024; and, PADF et al. Access to essential rights: migratory regularization, health, work and education. April 2022. Available at: <https://www.expedientepublico.org/wp-content/uploads/2022/06/Recomendaciones-proyecto-de-acceso-a-derechos-esenciales-Final-15-de-mayo-2022.pdf>, last access: March 10, 2024.

²³ PADF et al. Access to essential rights: immigration regularization, health, labor and education. April 2022. P. 14. Available at: <https://www.expedientepublico.org/wp-content/uploads/2022/06/Recomendaciones-proyecto-de-acceso-a-derechos-esenciales-Final-15-de-mayo-2022.pdf>, last access: March 10, 2024.

²⁴ UNDP. Migration in Costa Rica: Development of Recent Public Policies for its attention. Available at: <https://www.undp.org/sites/g/files/zskgke326/files/2022-11/PNUDLAC-working-paper-36-Costa%20Rica-ES.pdf>. Last accessed on March 7, 2024.

²⁵ International Organization for Migration (IOM), 2021. Regional Study: Programs and migration regularization processes. IOM. San José, Costa Rica. P. xii. Available at: https://programamesocaribe.iom.int/sites/default/files/estudio_regional._programas_y_procesos_regularizacion._web.pdf, last access: April 5, 2024.

²⁶ CEJIL. Observations on the recommendations issued by the IACHR in the Report on Migration. forced migration of Nicaraguans to Costa Rica. Available at: <https://cejilmovilidadenmesoamerica.org/wp-content/uploads/2022/06/Informe-Recomendaciones-Nicaragua-y-Costa-Rica-1.pdf>, last accessed on March 4, 2024.

13. Despite the increase in applications, it has been reported that the State needs more human and financial resources to respond adequately to asylum requests, so that the processes can take years²⁷. Thus, the average processing time for a refugee application from formalization to a first-instance decision is **at least four years**.²⁸ In some cases, it has **taken up to five years to be recognized as a refugee applicant**.²⁹
14. We note with concern the entry into force of Executive Decree No. 43810 of December 2022, as it imposed significant restrictions on the asylum application process and persons needing of international protection. First, it establishes a deadline of 30 calendar days from entry into the country to apply for asylum, which limits access to international protection and contravenes international regulations. This measure affects those needing asylum after this period, infringing on their right to apply for asylum. If they need to work, they must apply for a temporary work permit three months after the process has started if they do not have a resolution. Working without this permit will result in the denial of the asylum application. In addition, asylum seekers are required to have insurance with the Costa Rican Social Security Fund (CCSS) to receive and maintain their Migratory Identity Document for Foreigners (DIMEX)³⁰, all in contravention of their right to work. After adopting of the decree, persons with work permits must demonstrate continuous affiliation with the CCSS to maintain their refugee status.
15. In addition, the decree automatically applies the concept of a "safe third country"³¹, rejecting applications from those who transited through countries considered safe without having previously applied for asylum, without clearly defining what constitutes a safe country or the procedure to be followed in these cases.
16. Finally, the Regulations on Refugees were amended, eliminating the remedy that allowed appeals when an application was declared unfounded or abusive, affecting the right to due process. On the other hand, the right of applicants to freedom of transit was restricted, prohibiting their departure from the country during the application procedure. In short, these changes represent a setback in the rights of asylum seekers and contravene not only international obligations in this area but also the principles of progressivity and non-regression in human rights³².

²⁷ Migration Costa Rica. National Integration Plan 2023-2027. Available at: <https://www.migracion.go.cr/Documentos%20compartidos/Políticas/Plan%20Nacional%202023-2027.pdf>, last access: March 1, 2024. p. 15.

²⁸ Ibid.

²⁹ VOA. Less than 4% of Nicaraguan refugee applications in Costa Rica have been approved in the last five years. Available at: <https://www.vozdeamerica.com/a/refugio-nicaraguenses-costa-rica-7406020.html>, last accessed on April 2, 2024.

³⁰ The DIMEX is crucial for migrants because it serves as official identification, facilitates regular stay in the country, allows smooth entry and exit, access to government programs, opening bank accounts and applying for essential services.

³¹ This measure was implemented, according to the authority, because "in recent years there has been an accelerated growth in refugee applications, reaching an increase of more than 6,000%, including, in 2021, it became the fourth country in the world with the highest number of refugee applications. It has been detected that between 80% to 90% of the people requesting refuge do not qualify within the definition of this international protection, including economic migrants or those who have been living in the country for years and have never been regularized".

³² In this regard, an Unconstitutionality Action was filed addressing the points indicated to evidence the violation of Costa Rica's internal regulations, which has not been resolved to date.

17. There have been very few state initiatives that guarantee alternatives for migratory regularization or accelerated refugee status recognition processes that ensure the rights of refugees. Although, from March 1, 2023, to February 29, 2024, the Costa Rican government implemented a Temporary Special Category aimed at people from Cuba, Nicaragua, and Venezuela with pending or rejected refugee applications, this is not a category that grants international protection and various organizations have identified a series of difficulties in making the application³³. First, to qualify, individuals must have filed their refugee application between January 1, 2010, and September 30, 2022, and must have resided in Costa Rica. However, requirements such as apostilled documents and consular registration must be met, and if the application is accepted, the document costs US\$95.³⁴
18. In this regard, **we recommend** the following:
19. Formally incorporate into domestic legislation the expanded definition of refugee contained in the Cartagena Declaration on Refugees, guaranteeing access to the exercise of the right to seek and receive asylum.
20. Eliminate from the current regulations one calendar month from entry into the country to apply for asylum, and eliminate the legal and administrative barriers that impede the asylum application. Along these lines, it is necessary to allocate the necessary resources to improve infrastructure and resources at the points of entry and reception of asylum applications, particularly at borders and border posts, to ensure better conditions for access to asylum;
21. Continue with governmental efforts and public policies to receive and integrate persons in need of international protection, such as persons from Nicaragua;
22. Promote that alternative channels for migratory regularization do not distinguish by nationality or administratively require background information that endangers people needing of international protection, such as consular registration or the need to present a criminal record.

III. **Lack of access to economic, social, and cultural rights for migrants and refugees:**

23. Due to de facto and de jure barriers, migrants and people in need of international protection are unable to exercise a series of economic, social, and cultural rights. Among them, those that stand out most clearly are the lack of access to health, work, and food. In addition, this has led to the precariousness and informality of these people's work.
24. At a general level, we have identified that migrants face difficulties in accessing reliable information in general and about their processes, in addition to confronting the Costa

³³ Confidential. Nicas have a month and a half to apply for "special permit" to migrate to Costa Rica. Available at: <https://confidencial.digital/migrantes/plazo-y-requisitos-para-obtener-la-categoria-especial-temporal/>, last access: March 19, 2024.

³⁴ Dirección General de Migración y Extranjería. Citizens from Cuba, Venezuela and Nicaragua will be eligible for the Temporary Special Category as of March 1. Available at: [https://migracion.go.cr/Paginas/Categor%C3%ADa%20Migratorias%20\(Extranjer%C3%ADa\)/Categor%C3%ADa-Especial-Temporal.aspx](https://migracion.go.cr/Paginas/Categor%C3%ADa%20Migratorias%20(Extranjer%C3%ADa)/Categor%C3%ADa-Especial-Temporal.aspx), last access: April 4, 2024.

Rican bureaucratic system³⁵. Migrants and those in need of international protection lack information and accompaniment on how to carry out procedures or how to access essential services, which leaves them in a state of uncertainty and vulnerability.

a. Lack of access to the right to work

25. One of the main problems faced by migrants and people in need of international protection in Costa Rica is the different legal, institutional, and social barriers to accessing work. The lack of migratory documentation and work permits makes it impossible to integrate into the labor force under adequate conditions and to obtain income, which consequently hinders opportunities for access to other rights. In addition, the work search is affected by discrimination and structural violence against certain nationalities, such as the Nicaraguan population.
26. Additionally, the aforementioned reform to the Regulations for Refugees, implemented through Executive Decree No. 43810, has posed an additional challenge to the exercise of the right to work of refugee claimants. In effect, the decree restricts access to regular work by implementing the requirement to apply for a work permit three months after the refugee application process has begun. Thus, based on our fieldwork, we have identified that since December 2022, a significant group of migrants and persons in need of international protection have reported increased difficulties in accessing work permits for labor and service jobs.
27. On the other hand, Resolution D.JUR-0204-12-2022-ABM, issued by the Ministry of Interior and Police³⁶, establishes restrictive criteria for obtaining work permits for asylum seekers. These include the need for a formal offer of employment by a company or individual that complies with certain tax and labor requirements, the prohibition of changing employers, the need for social security, and the need to make several payments, among others. At the same time, these requirements do not contemplate the possibility of granting a permit for self-employed persons, thus limiting the possibilities of entrepreneurship and other forms of work not subject to having an employer. These conditions, comparable to those required for other migratory categories, are excessive for refugee claimants and aggravate their situation of vulnerability and economic hardship.
28. Also, as civil society organizations, we have documented that one of the reasons for the lack of employment is associated with the impossibility of recognition and equalization of higher education studies. Although within the framework of the Central American Integration System (SICA), there are mechanisms for the recognition and equalization of studies, degrees, and titles of foreigners³⁷, we observe that in practice there are difficulties for the exercise³⁸. Specifically, in Costa Rica, authorization to practice the

³⁵ Information gathered through the field work of our organizations.

³⁶ Ministry of Interior and Police, Resolution D.JUR-0204-12-2022-ABM, published February 14, 2023, Art. 2. resolution. Available at <https://www.migracion.go.cr/Documentos%20compartidos/Refugio/Resoluci%c3%b3n%20D.JUR-0204-12-2022-ABM%20Permisos%20laborales%20a%20las%20personas%20solicitantes%20de%20%20refugiado.pdf>, last accessed March 3, 2024.

³⁷ SICA. Academia. Available at: <https://www.sica.int/sociedadcivil/academia>, last access: April 2, 2024.

³⁸ Information gathered by our organizations through field work.

profession corresponds to the respective professional association, which sets the parameters and procedures³⁹ for incorporation. Thus, the authorization processes of the professional associations are often marked by xenophobia, which often prevents migrants and persons in need of international protection from practicing their profession⁴⁰. This also results in limited access to qualified employment opportunities.⁴¹

29. Attitudes of xenophobia and discrimination are barriers they face across the board when seeking employment and carrying out formalities. These negative attitudes are manifested both in the hiring process and in the treatment in the workplace and in the procedures for accessing social services (health, education) and other procedures before State institutions.⁴²

b. Informality, outsourcing, and labor precariousness

30. In addition to the barriers mentioned above, it is a matter of concern that in the case of migrant workers, high levels of subcontracting and legal loopholes have been identified that act as a disincentive to hire migrant workers or to do so informally and in precarious working conditions⁴³. The irregular employment situation leads to abusive conditions, including wages up to 40% lower than the established⁴⁴, insufficient safety measures at work, and mistreatment, among other problems. Faced with their economic needs, many workers are forced to accept jobs in precarious conditions and without proper labor guarantees.⁴⁵
31. This employment dynamic not only makes it difficult for migrants to access the labor market but also promotes discrimination based on other conditions such as gender, age, and sexual orientation. For example, it has been identified that there is a situation of discrimination and stigma in the labor sphere that disproportionately affects the transgender migrant population⁴⁶, who have reported that they have not found formal work in the country and that they subsist through informal sex work and subsidies from institutions and civil society organizations⁴⁷.

³⁹ University of Costa Rica. Recognition and equalization of studies. Available at: <https://ori.ucr.ac.cr/reconocimiento-equiparacion-estudios>, last access: April 2, 2024.

⁴⁰ Information gathered by our organizations through field work.

⁴¹ Information collected by our organizations.

⁴² Information gathered by our organizations and partners through field work.

⁴³ Information identified from field work carried out by the organizations and allied organizations.

⁴⁴ The voice of Guanacaste. El laberinto de la explotación laboral a migrantes nicas en Costa Rica. Available at: <https://vozdeguanacaste.com/el-laberinto-de-la-explotacion-laboral-a-migrantes-nicas-en-costa-rica/>, last access: March 12, 2024.

⁴⁵ CEJIL. Pronouncement. Available at: https://cejilmovilidadenmesoamerica.org/wp-content/uploads/2023/05/PRONUNCIAMIENTO_DESCA_30JUN.pdf, last access: March 8, 2024.

⁴⁶ Refworld. Costa Rica - Protection Monitoring: Venezuelan Refugees and Refugee Claimants 2022. Available at: https://www.refworld.org/es/ref/countryrep/unhcr/2022/es/134614?prevDestination=search&prevPath=/es/search?sm_country_name%5B%5D=Costa+Rica&sort=score&order=desc&page=2&result=result-134614-en, last access: 8 March 2024.

⁴⁷ IRC Open House. Needs of LGBTIQ populations in forced displacement. Available at: <https://www.sogica.org/wp-content/uploads/2019/12/Estudio-desplazamiento-forzado-LGBTIQ-oficial.pdf>, last access: March 8, 2024.

32. It has also been identified that there are particular situations concerning the type of employment. When talking about *migrants engaged in domestic or care work*, the invisibility in the statistics and the precariousness of their employment conditions are of concern. According to what we have documented, in the country, barely 10,000 domestic workers have retired in the last ten years. Thus, at the old age of these people, the social gaps of poverty are perpetuated⁴⁸. State intervention continues to be insufficient given that there are not enough inspections of workplaces and homes, but it also fails to generate awareness-raising policies for the employer sector to comply with the legal requirements that ensure the rights of this type of worker⁴⁹. In this area, it is believed that the economic need of migrant domestic workers, as well as the threats of revealing their irregular status, cause them to experience situations of violence in the workplace⁵⁰.
33. On the other hand, *migrant workers in the agricultural sector* face specific challenges, especially about piece wage rates, which are set unilaterally by companies without state supervision or oversight by the National Wage Council⁵¹. This lack of regulation and ignorance on the part of both workers and the government facilitates situations of labor exploitation, reaching in extreme cases conditions similar to slavery, given that the worker must adjust to the rhythm and demands imposed by the employer without mediation⁵². Civil society organizations warn that this method of remuneration for work performed is a significant risk factor, and may compromise the health and safety of workers⁵³.
34. Against this backdrop, there is a lack of adequate information mechanisms to provide detailed statistical data on migrant workers. Existing surveys often fail to cover the entire migrant working population, as national censuses are not designed to specifically reflect their labor situation. This is further complicated by attempts to register those working in the informal economy⁵⁴, making it difficult to effectively monitor their labor rights and assess compliance with labor inspections.
35. During a consultation with civil society and academic organizations regarding the situation of migrant workers in Costa Rica, they agreed that the lack of action by the State promotes an environment of impunity in the face of exploitative labor practices. This is attributed to both delays in the delivery of regularization documentation and insufficient investigation and sanctioning of these practices by the competent authorities. In cases such as that of the pineapple plantations, investigations have been reported that result in massive dismissals of workers without recognition of their rights, and that end in

⁴⁸ Information obtained through field work carried out by our organizations.

⁴⁹ Inter-American Commission of Women. Rights of paid domestic workers in the Americas: Progress and persistent gaps. 2022. P. 49. Available at: <https://www.oas.org/es/cim/docs/Derechos-TDH-ES.pdf>

⁵⁰ Ibid. p. 62.

⁵¹ Information obtained through field work carried out by our organizations.

⁵² Information obtained through field work carried out by our organizations.

⁵³ Furrows. A century of labor exploitation and a continuity of diverse modern forms of forced labor in Costa Rican agroindustry. Available at: <https://surcosdigital.com/un-siglo-de-explotacion-laboral-y-una-continuidad-de-diversas-formas-modernas-de-trabajo-forzoso-en-la-agroindustria-costarricense/>, last access: March 8.

⁵⁴ Organization of American States. Sources of information for management of migration flows in Costa Rica: current situation, weaknesses and perspectives. Available at <https://www.oas.org/es/sedi/ddse/documentos/mide/Taller%20Sistemas%20de%20Informacion%20Nicaragua%20-%20OIM/MTSS%20Costa%20Rica%20-%20Fuentes%20de%20informacion%20migracion%20laboral.pdf>, last accessed on March 9.

impunity, as the companies involved do not face significant sanctions⁵⁵.

36. Also, regarding the labor exploitation of migrants or persons in need of international protection, the limitations of the inspections carried out by the Ministry of Labor are highlighted, pointing out the insufficient number of inspectors and the lack of legal authority to act immediately. Cases must be referred to the ordinary justice system, which implies considerable delays and additional costs for migrant workers⁵⁶.

c. Lack of access to adequate food as a consequence of labor constraints

37. The lack of access to adequate food is directly associated with the aforementioned impediments that migrants and people in need of international protection have to work or obtain formal sources of income. In this regard, the indicator of Prevalence of food insecurity in Costa Rica identified that one of the population groups that most frequently faces food insecurity is the migrant population. In this regard, the United Nations High Commissioner for Refugees (hereafter UNHCR) reported in 2020 that "more than three-quarters of Nicaraguan refugees and asylum seekers in Costa Rica go hungry and eat only once or twice a day as a result of the socioeconomic impact of the COVID-19 pandemic"⁵⁷. In a similar vein, 63.9% of households in 2022 were found to consume two or fewer meals per day and 8.3% had access to only one meal per day⁵⁸. In 2021, 42% of households reported a lack of food⁵⁹.

d. Impediments to access state healthcare services

38. Barriers to access to health care for the migrant population and those in need of international protection are framed in the context of racial discrimination and xenophobia that prevent access to health services at various levels. In Costa Rica, access to the health system depends on the Costa Rican Social Security Fund and people in a situation of human mobility can benefit from these services as long as they have an identity

⁵⁵ Furrows. A century of labor exploitation and a continuity of diverse modern forms of forced labor in Costa Rican agroindustry. Available at <https://surcosdigital.com/un-siglo-de-explotacion-laboral-y-una-continuidad-de-diversas-formas-modernas-de-trabajo-forzoso-en-la-agroindustria-costarricense/>, last access: March 10, 2024.

⁵⁶ Information obtained through field work carried out by our organizations.

⁵⁷ UNHCR, COVID-19 drives Nicaraguan refugees to hunger and despair. Available at: <https://www.acnur.org/noticias/briefing/2020/8/5f482fa64/la-covid-19-lleva-a-los-refugiados-nicaraguenses-al-hambre-y-la-desesperacion.html>, last accessed on March 11, 2024.

⁵⁸ UNHCR. Costa Rica- Protection Monitoring: Venezuelan Refugees and Refugee Claimants 2022. Available at: https://www.refworld.org/es/ref/countryrep/unhcr/2022/es/134614?prevDestination=search&prevPath=/es/search?sm_country_name%5B%5D=Costa+Rica&sort=score&order=desc&page=2&result=result-134614-en, last accessed: March 11, 2024.

⁵⁹ Micro Data UNHCR. Socioeconomic Impact of COVID-19, 2021. Available at: <https://microdata.unhcr.org/index.php/catalog/636>, last accessed March 10.

document⁶⁰. Therefore, those whose migratory status is irregular are in principle excluded from primary health care. Although, in principle, irregular migrants could receive medical care in cases of emergency, there are no mechanisms or safeguards to ensure that care will be comprehensive and that it will be guaranteed without problems⁶¹.

39. **In the case of primary health care, several civil society organizations have documented that it is almost nonexistent.** The impediments that have been observed include requiring either an identity document or medical records showing pre-arrival medical conditions⁶². Due to this situation, UNHCR has implemented an agreement through which complementary health insurance was granted to 5000 people with chronic diseases, such as diabetes, to allow them to have primary health care. However, as it is a temporary measure, it has not filled the clear gaps in access to health services.
40. In addition, significant fears related to the collection of health services have been documented. Uncertainty about collection procedures and lack of clarity in guidelines have led the population to avoid seeking medical care for fear of incurring debts they cannot pay. Although some services may be billed to the State, the final decision on the issuance of collections rests with the operators of the health institutions, which may result in the issuance of bills that will not be covered by the State, exacerbating fear and reluctance to seek necessary medical care⁶³. It has also been documented that there is a lack of access to and lack of medicines, even when medical care has been obtained⁶⁴.
41. It has been identified that some of the HIV-positive migrant population⁶⁵ receive medical treatment through the Costa Rican Social Security Fund, but some have reportedly indicated that the psychological care provided has not been sufficient. In addition, many civil society organizations provide these services, filling the state gap, which results in a lack of effective and timely medical care.
42. In addition, we note that there is a lack of programs and services aimed at the migrant population and those in need of international protection in the area of sexual and reproductive health, as well as those related to HIV/AIDS with a gender approach. We note with concern that this is more evident in rural areas and at community levels⁶⁶.
43. Finally, xenophobia and structural racism within health institutions negatively affect the quality of treatment and access to services for racialized people, such as Nicaraguans.

⁶⁰ General Directorate of Migration and Foreigners (DGME). National Integration Plan 2023-2027. Available at: <https://www.migracion.go.cr/Documentos%20compartidos/Políticas/Plan%20Nacional%202023-2027.pdf>, último accessed: March 1, 2024.

⁶¹ Ramos, A. C., & Fernández, A. (2020). Universal coverage? Barriers in access to health care for the Nicaraguan refugee population in Costa Rica. *Anuario Centro de Investigación y Estudios Políticos*, (11), 257-289.

⁶² CEJIL Report: Observations on the recommendations issued by the IACHR in the Report on Forced Migration of Nicaraguan Persons to Costa Rica. Page 12

⁶³ *Ibid* op cit. p. 276-279.

⁶⁴ Information gathered by our organizations through field work.

⁶⁵ IRC Open House. Needs of LGBTIQ populations in forced displacement. Available at: <https://www.sogica.org/wp-content/uploads/2019/12/Estudio-desplazamiento-forzado-LGBTIQ-oficial.pdf>, last access: March 8, 2024.

⁶⁶ Information gathered by our organizations through field work.

This discrimination manifests itself in derogatory treatment and denial of access to services, which reinforces existing barriers to obtaining adequate medical care.

e. Lack of access to decent housing

44. In recent years, we have identified an increase in the number of migrants and people in need of international protection who are homeless⁶⁷. The State must ensure them a decent and dignified reception process. On the other hand, although some people have the possibility of renting a temporary space, they have reported that requirements and conditions are often imposed on them, such as higher than normal prices⁶⁸. In contravention of Costa Rican housing legislation, they also report that they have been asked to leave their homes without sufficient time to find a new place to live. On housing conditions, a survey conducted by UNHCR in 2022 of refugees and asylum seekers found that a quarter of households do not have access to a private bathroom and only 67% of households have a water supply for more than two hours a day. In the same study, when asked what the most urgent needs were, 60.5% indicated that they were housing and hygiene⁶⁹.
45. Finally, we are concerned about the lack of shelters for migrants and people in need of international protection⁷⁰. We consider that these spaces must have an intersectional approach and a gender perspective to ensure access to decent housing.
46. In this regard, given the lack of access to DESCA observed above, we **recommend** the following:
47. Guarantee the dignified and equal access of persons in human mobility to the DESCA, allowing, in addition, the regularization of migrants and persons in need of protection, without imposing excessive, disproportionate, and unattainable requirements. Decouple the exercise of these rights to their right to seek and receive asylum, avoiding issuing sanctions that transgress international human rights standards. In addition, ensure that the intersectionality of various conditions that usually generate discrimination is not a reason for arbitrary treatment in the exercise of and access to health, housing, education, and work, among others;
48. Strengthen institutions and initiatives for the protection of the human rights of people in a situation of human mobility and access to basic services, increasing the control capacity of institutions to guarantee access to and exercise of decent work and health. In addition, measures and awareness-raising campaigns focused on access for refugees and migrants

⁶⁷ BBC. "We are overwhelmed": The severe migration crisis that led Costa Rica's president to call for the declaration of a national emergency. September 27, 2023. Available at: <https://www.bbc.com/mundo/articles/c5179k0xdlzo>

⁶⁸ Freedom House. Defending human rights and democracy defenders and activists in Latin America. Available at: https://freedomhouse.org/sites/default/files/2022-01/Special_Report_LAC_HRDs_PDF_SPANISH_Final_01262022.pdf, last access: March 3, 2024.

⁶⁹ Costa Rica- Protection Monitor: Venezuelan Refugees and Refugee Seekers 2022. Available at: https://www.refworld.org/es/ref/countryrep/unhcr/2022/es/134614?prevDestination=search&prevPath=/es/search?sm_country_name%5B%5D=Costa+Rica&sort=score&order=desc&page=2&result=result-134614-en, last access: March 7, 2024.

⁷⁰ Information gathered and obtained through the field work we carry out in our organizations.

living with HIV/AIDS and chronic and/or degenerative diseases and cancer, with an intersectional and intercultural approach, as well as comprehensive health care. In the area of labor, it is recommended that Convention 111 concerning Discrimination in Respect of Employment and Occupation, Convention 189 on Domestic Workers of the International Labor Organization (ILO), and Convention 190 on Violence and Harassment of the ILO, as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, be incorporated into domestic legislation;

49. Strengthen transparency mechanisms by promoting the disaggregation of statistical data by age, national origin, gender, sexual orientation, gender identity, and health status of refugees and migrants in all state institutions to make visible their situation and specific requirements of the population in human mobility.

IV. Fight against discrimination and violence directed at migrants and people in need of protection

50. In Costa Rica, the narratives surrounding migration tend to be stigmatizing, discriminatory, and criminalizing. These negative visions impact both the creation and implementation of laws and public policies, also modifying how society understands and relates to migration. We note with growing concern that in Costa Rica attitudes of discrimination, xenophobia, and violence towards the migrant population have escalated over the years⁷¹. In the last year, more than 1.4 million messages and conversations were detected in Costa Rican social networks linked to hate speech and discrimination, compared to the 937, 000 detected in 2022, which represents an increase of 50%. But if the figure is compared with that of 2021, the increase in two years was 255%.⁷²

51. This situation has also been aggravated by the positioning of the current government. For example, on June 2, 2023, the president stated that migration was "exceeding the limits of what is reasonable" and that "the issue is that those migrants [would have been] given school or education, social security, health, and public safety," which would be costing "between \$200 and \$300 million a year (...) which means a lot of fiscal discipline"⁷³. It also reportedly stated that the influx of migrants put "pressure on our communities, on public safety, on waste management, on health services and especially on our budget"⁷⁴.

a. Violence and persecution against Nicaraguans

52. In this context of xenophobia and violence, there is currently a clear situation of persecution and a lack of investigation of crimes committed against the Nicaraguan

⁷¹ Information gathered and obtained through the field work we carry out in our organizations.

⁷² United Nations (2023) Hate speech and discrimination report 2023. Available at: <https://costarica.un.org/es/238630-informe-sobre-discursos-de-odio-y-discriminaci%C3%B3n-2023>, last access: 11 March 2024.

⁷³ Double Check. Chaves' distorted image on the "cost of migrants". Available at: <https://radios.ucr.ac.cr/2023/07/doblecheck/costo-migrantes-chaves/>, last accessed March 9, 2024.

⁷⁴ CNN. Costa Rican president says wave of migrants generates "enormous pressure" on country. Available at: <https://cnnespanol.cnn.com/2023/10/02/presidente-costa-rica-oleada-migrantes-presion-trax/>, last accessed on March 3, 2024.

community in a situation of human mobility. According to official data, from January to September 2023, 71 Nicaraguans were murdered in Costa Rica, which represents 10% of the total of 678 homicides registered⁷⁵. This proportion has remained stable, with slight variations of one percentage point, from 2017 to 2022⁷⁶. To this would be added the report by Nicaraguan refugees of the existence in Costa Rica of groups associated with the Nicaraguan government that seek to identify and intimidate people opposing the Ortega regime⁷⁷. In January 2024, a Nicaraguan refugee and his wife, both opponents of the regime, were reportedly shot at⁷⁸ for the second time and other groups of Nicaraguan refugees reportedly denounced harassment, aggression, and persecution by Sandinista sympathizers⁷⁹.

53. The institutional response also raises a red flag for refugees. In April 2020, refugees and asylum seekers from Nicaragua reported that Costa Rican police and migration officials carried out a violent raid on the farm where they reside and work, located in Upala, Costa Rica⁸⁰. Other xenophobic expressions and acts of violence such as these, committed in particular against the Nicaraguan population, had been reported in advance⁸¹. At the same time, we note with concern the position taken by the current Costa Rican administration vis-à-vis the regime of Daniel Ortega, given that President Chaves has acknowledged maintaining "an extremely cordial and constructive relationship" with Ortega⁸². There have even been reports of a case in which a summary procedure was applied to deny a person's request for asylum, and he was subsequently extradited to Nicaragua despite being openly opposed to Daniel Ortega's regime.⁸³

⁷⁵ Confidential. Nicas live "el año más violento" de Costa Rica entre balaceras y expendios de droga. Available at: <https://confidencial.digital/migrantes/asi-viven-los-nicas-el-ano-mas-violento-en-costa-rica/>, last accessed on March 10, 2024.

⁷⁶ Ibid.

⁷⁷ El País. Nicaraguan opponents persecuted in exile: Costa Rica ceases to be a peaceful refuge. Available: <https://elpais.com/america/2024-03-10/opositores-nicaraguenses-perseguidos-en-el-exilio-costa-rica-deja-de-ser-un-refugio-tranquilo.html>, last accessed on March 10, 2024.

⁷⁸ El País. Nicaraguan opponents persecuted in exile: Costa Rica ceases to be a peaceful refuge. Available: <https://elpais.com/america/2024-03-10/opositores-nicaraguenses-perseguidos-en-el-exilio-costa-rica-deja-de-ser-un-refugio-tranquilo.html>, last accessed on March 10, 2024.

⁷⁹ Center for Inter-American Legal Assistance in Human Rights (CALIDH). Open letter to the president of Costa Rica regarding the extradition of refugee claimants requested by Nicaragua. Available at: <https://drive.google.com/file/d/1z70VHcE25neLIEKTgKEhT9zENUMSCXNz/view>, last accessed on March 14, 2024.

⁸⁰ CEJIL. Communiqué: Organizations request that serious allegations of threats and intimidation against refugee families in Upala be investigated and acted upon diligently. Available at: <https://cejilmovilidadenmesoamerica.org/comunicado/organizaciones-solicitan-que-se-investigue-y-actue-con-diligencia-ante-las-serias-denuncias-de-amenaza-e-intimidacion-contra-familias-refugiadas-en-upala/>, last accessed on March 10, 2024.

⁸¹ CEJIL. Communiqué: Costa Rica: We strongly condemn xenophobic expressions against Nicaraguan migrants. Available at: <https://cejilmovilidadenmesoamerica.org/comunicado/costa-rica-condenamos-energicamente-expresiones-xenofobas-contra-personas-migrantes-nicaraguenses/>, last accessed on March 9, 2024.

⁸² El País. Nicaraguan opponents persecuted in exile: Costa Rica ceases to be a peaceful refuge. Available: <https://elpais.com/america/2024-03-10/opositores-nicaraguenses-perseguidos-en-el-exilio-costa-rica-deja-de-ser-un-refugio-tranquilo.html>, last accessed on March 10, 2024.

⁸³ Infobae. (2024, February 27). Extradition to Managua of opponents of Daniel Ortega's regime worries Nicaraguan exiles in Costa Rica. Infobae. Retrieved from <https://www.infobae.com/america/america-latina/2024/02/27/la-extradicion-a-nicaragua-de-opositores-al-regimen-de-daniel-ortega-preocupa-al-exilio-nicaraguense-en-costa-rica/>

54. We note with concern the lack of diligence in the procedures for the recognition of the stateless status of Nicaraguan persons deprived of their nationality during the year 2023⁸⁴, and the lack of humanitarian assistance for this population, which is in a particularly vulnerable situation.
55. Therefore, due to the situation of discrimination and violence, **we recommend** the following:
56. Cease criminalizing, stigmatizing, or discriminatory discourse on the refugee and migrant population from institutional or state spaces, particularly from the highest authorities of the State;
57. Adopt adequate legal frameworks to combat discrimination and intolerance against refugees and migrants; and strengthen public policies focused on guaranteeing the rights of persons in a situation of human mobility, following the principles of equality and non-discrimination;
58. Strengthen and raise awareness among public officials, social workers, health service providers, labor inspectors, and those responsible for administering justice in the area of equality and non-discrimination of migrants and refugees, particularly concerning non-refoulement;
59. Monitor that domestic legislation, practices, and public policies respect the principle of non-refoulement and comply with the obligation not to extradite, deport, expel, or remove refugees when it is believed that there is a real risk of causing irreparable harm, as established by international law.

⁸⁴ Group of experts on human rights in Nicaragua (February 28, 2024). Report. A/HRC/55/27. Para. 37. Available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session55/advance-versions/A_HRC_55_27_UnofficialSpanishVersion_1.docx.