

**Immigration Detention in Costa Rica**

**Global Detention Project**

**July 2015**

The Global Detention Project (GDP) is a non-profit research centre based in Geneva, Switzerland, that investigates the use of detention in response to global migration. The GDP's aims include: (1) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analysing the growth and evolution of detention practices and policies; (2) facilitating accountability and transparency in the treatment of detainees; and (3) encouraging scholarship in this field of immigration and refugee studies.

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## Introduction

Costa Rica is a transit country for migrants travelling to the United States and Canada as well as a destination country. In 2013 the migrant population numbered 419,600. This represented 8.6 percent of the country's total population, the second highest ratio in Latin America, behind Belize (15.3 percent).<sup>1</sup> Approximately 75 percent of non-citizens residing in Costa Rica are from Nicaragua,<sup>2</sup> and the country's detention practices have historically been linked to the effort to stem Nicaraguan migration.<sup>3</sup>

Based on reports by human rights groups, it appears that detention in Costa Rica began to emerge as a coherent policy apparatus in the late 1990s as large numbers of Nicaraguans began crossing into the country to work as undocumented labourers in farms. According to a 2002 report by the Central American Human Rights Commission (Codehuca), "In June 2000 the General Immigration and Naturalisation Department ... processed approximately 155,000 (regularization) requests of which more than 97% were Nicaraguan immigrants. ... The large number of immigrants urged the authorities to implement emergency means to control the undocumented immigration, like the incorporation of a hostel for undocumented immigrants in San José in November 1999 and the implementation of temporary retention centres in the northern part of the country. These are meant to facilitate the process of rejection as established in Costa Rican legislation."<sup>4</sup>

In its 2009 Migration Law (*Ley General de Migración y Extranjería* N° 8764), Costa Rica formalized provisions concerning deportation and detention. In 2011 the government issued a detailed Migration Control Regulation (*Reglamento de Control Migratorio, Decreto Ejecutivo* N° 36769), which interprets and clarifies the Migration Law.

Article 5 of the Migration Control Regulation defines administrative immigration detention as a restriction of liberty ordered by the Directorate General of Migration (*Dirección General de Migración y Extranjería*) for a foreigner who has entered or remained in the country in irregular manner. It states that the period of detention shall be necessary to carry out the administrative procedure of expulsion or regularization of the person's migratory status.

Article 31(5) of the Migration Law provides the legal framework and establishes basic procedures for carrying out "administrative detention." According to this article, migration

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<sup>1</sup> UN Department of Economic and Social Affairs (UNDESA). 2013. *International Migration 2013 Wall Chart*. <http://www.un.org/en/development/desa/population/publications/migration/migration-wallchart-2013.shtml>.

<sup>2</sup> International Organization for Migration (IOM). Website. "Costa Rica: Migration Trends." [http://costarica.iom.int/en/costa\\_rica/migration\\_trends\\_in\\_the\\_mission/](http://costarica.iom.int/en/costa_rica/migration_trends_in_the_mission/) (16 June 2015).

<sup>3</sup> Central American Human Rights Commission (CODEHUCA). 2002. "SITUATION OF NICARAGUAN IMMIGRANTS IN COSTA RICA – CERD 2002." Available at <https://www.fidh.org/IMG/pdf/costarica2002cerd.pdf>.

<sup>4</sup> Central American Human Rights Commission (CODEHUCA). 2002. "SITUATION OF NICARAGUAN IMMIGRANTS IN COSTA RICA – CERD 2002." Available at <https://www.fidh.org/IMG/pdf/costarica2002cerd.pdf>.

police (*Policía Profesional de Migración*) may detain a migrant for up to 24 hours to verify his or her migratory status. In “special circumstances” this can be extended based on a decision made by the director of the Directorate General of Migration (Migration Law, article 31(5)(a); Migration Control Regulation, article 20). The Migration Law further provides that if the “migratory infraction” (*infracción migratoria*) is confirmed and less coercive measures are dismissed, the Directorate General of Migration shall order deportation proceedings (Migration Law, article 31(5)(a)). Once the consulate of the migrant’s country of origin identifies the person, immigration detention shall not exceed 30 days during which deportation should be carried out. Yet, this period can be extended in “exceptional circumstances,” when justified by the Directorate General of Migration (Migration Law, article 31(5)(b)). The maximum period of detention is thus not set out in the legislation. According to some reports, detention can last longer than six months.<sup>5</sup>

Pursuant to article 31(7) of the Migration Law anyone subject to migration proceedings is to be informed of the reasons for his apprehension and have the right to consular assistance, access to a legal adviser paid by him, and linguistic assistance. Under article 194 of the Migration Law, detainees have the right to appeal detention orders to the Migration Administrative Tribunal (*Tribunal Administrativo Migratorio*) within three days following issuance of an order. The tribunal does not automatically review the legality of detention. Thus, if a detainee does not make an appeal, immigration detention is not reviewed.<sup>6</sup>

According to the Migration Law, detention is an exceptional measure to be used only when less coercive measures are deemed inadequate for the particular case (Migration Law, article 31(5)). It is difficult to assess how often less coercive measures are employed because authorities do not provide any detention-related statistics.<sup>7</sup> The Migration Law lists four non-custodial measures: regular reporting to authorities, bail, deposit of documents, and home detention (Migration Law, article 211). According to the Centro Internacional De Derechos Humanos de Personas Migrantes (CIDEHUM), bail and home detention are only very rarely used.<sup>8</sup>

According to the Migration Control Regulation, the migration police may not keep children in custody. Rather, it is the National Child Welfare Agency (*Patronato Nacional de la Infancia*) who is charged with their care (Migration Control Regulation, article 20).

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<sup>5</sup> International Detention Coalition (IDC). 2014. *INFORME REGIONAL DETENCIÓN MIGRATORIA Y ALTERNATIVAS A LA DETENCIÓN EN LAS AMÉRICAS*. October 2014.

<sup>6</sup> Richard, Gabriela (Centro Internacional de Derechos Humanos de Personas Migrantes CIDEHUM). 2014. Global Detention Project Questionnaire: Costa Rica. 29 September 2014.

<sup>7</sup> Richard, Gabriela (Centro Internacional de Derechos Humanos de Personas Migrantes CIDEHUM). 2014. Global Detention Project Questionnaire: Costa Rica. 29 September 2014.

<sup>8</sup> Richard, Gabriela (Centro Internacional de Derechos Humanos de Personas Migrantes CIDEHUM). 2014. Global Detention Project Questionnaire: Costa Rica. 29 September 2014.

In 2013, 1,150 people sought asylum in Costa Rica; 1,170 in 2012.<sup>9</sup> Asylum seekers are generally not detained. They are issued a document stating their status, which protects them from immigration detention.<sup>10</sup> If administrative or penal proceedings related to undocumented stay of an asylum seeker are on-going, they are to be suspended until the person's asylum application is assessed (Refugees Regulation, article 137).

The country operates one dedicated long-term immigration detention facility, the Centro de Aprehensión Temporal para Extranjeros en Condición Irregular (CATECI), located in the Hatillo neighborhood of San José (prior to the adoption of the Migration Law the centre was known as the Centro de Aseguramiento para Extranjeros en Transito).<sup>11</sup> The Directorate General of Migration has a custodial authority over the detainees and it manages the centre, jointly with the migration police. The CATECI has a capacity of 50 and confines on average 20 migrants at a time.<sup>12</sup> Men and women are kept separately.<sup>13</sup>

The Migration Law provides that the detainees must be kept in conditions that ensure their dignity and take into account specificities related to gender, age, and disability (Migration Law, article 31(5)(c)). However, during a visit in 2013, the Ombudsman and the National Preventive Mechanism noted that the centre did not provide adequate separation of different categories of detainees (according to the country of origin or vulnerability), that the infrastructure was old, and that sanitary conditions were inadequate.<sup>14</sup> In 2014, the Directorate General of Migration presented its plans to open a new detention centre to replace the CATECI.<sup>15</sup>

There is also a short-term detention facility at the Juan Santamaria Airport, located outside San José. It confines people who have attempted to enter the country in an irregular way while their status is verified or they have been removal with assistance from airlines.<sup>16</sup>

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<sup>9</sup> UN High Commissioner for Refugees (UNHCR). UNHCR Statistical Yearbook 2013. 2014. [www.unhcr.org/54cf9bd69.html](http://www.unhcr.org/54cf9bd69.html). UN High Commissioner for Refugees (UNHCR). UNHCR Statistical Yearbook 2012. 2013. <http://www.unhcr.org/52a7213b9.html>.

<sup>10</sup> Richard, Gabriela (Centro Internacional de Derechos Humanos de Personas Migrantes CIDEHUM). 2014. Global Detention Project Questionnaire: Costa Rica. 29 September 2014.

<sup>11</sup> Guerrero Segura, Efraín (UHCR Costa Rica). 2015. Email correspondence with Izabella Majcher (Global Detention Project). June 2015.

<sup>12</sup> Dirección General de Migración y Extranjería. 2014. *Proyecto: Creación del Nuevo CATECI*. Guerrero Segura, Efraín (UHCR Costa Rica). 2015. Email correspondence with Izabella Majcher (Global Detention Project). June 2015.

<sup>13</sup> Richard, Gabriela (Centro Internacional de Derechos Humanos de Personas Migrantes CIDEHUM). 2014. Global Detention Project Questionnaire: Costa Rica. 29 September 2014.

<sup>14</sup> Mecanismo Nacional de Prevención de la Tortura and Defensoría de los Habitantes de la República. 2014. *Informe Anual de Labores 2013*. <http://www.ohchr.org/Documents/HRBodies/OPCAT/NPM/CostaRica2013.pdf>.

<sup>15</sup> Dirección General de Migración y Extranjería. 2014. *Proyecto: Creación del Nuevo CATECI*.

<sup>16</sup> Richard, Gabriela (Centro Internacional de Derechos Humanos de Personas Migrantes CIDEHUM). 2015. Email correspondence with Izabella Majcher (Global Detention Project). June 2015.

Before opening the CATECI in August 2006 migrants were detained in 5<sup>th</sup> police station in San José (known as the “Quinta Comisaría”).<sup>17</sup> According to the 2002 Codehuca report:

“The detention centre is located in the premises of the ‘Quinta Comisaría’ in San José. It has a capacity of 80 persons, according to the Chief of the Immigration Police, Allen Calderón. Occasionally, the detained persons have to sleep on the floor. The centre does not have adequate hygienic conditions; the showers do not have doors and there are only two lavatories. The recreation area is very small, there is no place to eat and there is no direct light. The interior of the centre smells awfully. Families or friends of the detained persons should provide the necessary personal hygienic products. There is no public phone in the centre and the immigrants are not allowed to use the phone in the office to call their families or friends. Staff of the Ministry of Health has visited the detention centre few times, because it was informed of the bad hygienic conditions of the centre. The Ministry of Health was supposed to write a report of recommendations, however, the guards are still waiting for this report, which has not arrived yet. The Ombudsman Human Rights Office noted that occasionally underaged immigrants are detained in the ‘Quinta Comisaría,’ which is a severe violation of the Convention of Child Rights and Costa Rican law.”<sup>18</sup>

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<sup>17</sup> ACNUR/Dirección General de Migración y Extranjería. 2007. DONACION DE ACNUR MEJORARÁ CONDICIONES DE EXTRANJEROS DETENIDOS EN CENTRO DE APREHENSION EN HATILLO. Comunicado de Prensa Conjunto. 29 May 2007.

<sup>18</sup> Central American Human Rights Commission (CODEHUCA). 2002. “SITUATION OF NICARAGUAN IMMIGRANTS IN COSTA RICA – CERD 2002.” Available at <https://www.fidh.org/IMG/pdf/costarica2002cerd.pdf>.

## List of Detention Sites

Name	Status (Year)	Location	GDP Facility Type	Detention Timeframe	Security	Authority	Management	Capacity	Average Population	Demographics & Segregation
Centro de Aprehensión Temporal para Extranjeros en Condición Irregular (CATECI)	In use (2015)	San Jose, Hatillo	Migrant detention centre	Long-term	Secure	Direccion General de Migracion y Extranjeria	Dirección General de Migración y Extranjería / Migration Police	50 (2014)	20 (2015)	Adult males and adult females (2014); Gender segregation (2014)
Juan Santamaría International Airport detention facility	In use (2015)	Juan Santamaría International Airport, Alajuela	Transit zone		Secure	Direccion General de Migracion y Extranjeria	Dirección General de Migración y Extranjería / Migration Police			



# Map of Detention Sites



## Country View

- 1. Centro de Aprehensión Temporal para Extranjeros en Condición Irregular (CATECI)
- 2. Juan Santamaría International Airport detention facility