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## U.S. Department of State

### Costa Rica Country Report on Human Rights Practices for 1996

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#### COSTA RICA

Costa Rica is a longstanding, stable, constitutional democracy with a unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. Jose Maria Figueres of the National Liberation Party won the presidency in the February 1994 elections, in which approximately 80 percent of eligible voters cast ballots. The Government respects constitutional provisions for an independent judiciary.

The 1949 Constitution abolished the military forces. The Ministry of Public Security--which includes the Border Guard, the Rural Guard, and the antidrug police--and the Ministry of the Presidency share responsibility for law enforcement and national security. The Judicial Police, under the Supreme Court, conduct investigations, while the San Jose Metropolitan Police and the Transit Police within the Ministry of Public Works and Transportation also have limited police powers. Public security forces generally observe procedural safeguards established by law and the Constitution.

The market-based economy is based primarily on agriculture, light industry, and tourism. The pace of economic growth slowed from a 2.5 percent increase in 1995 to a projected rise of 1 to 1.5 percent in 1996. The Government also faced a growing fiscal deficit in 1995 equivalent to 3.8 percent of gross domestic product (GDP). Despite several tax increases in 1995, the projected public sector deficit for 1996 was equivalent to 3 percent of GDP. The Constitution protects the right to own private property; however, domestic and foreign property owners encounter difficulty gaining adequate, timely compensation for lands expropriated for national parks and those set aside for indigenous people or invaded by squatters.

Citizens enjoy a wide range of individual rights and freedoms. The Government fully respects the human rights of its citizens, and the law and judiciary provide effective means of dealing with instances of abuse of individual rights. Nonetheless, the judicial system moves very slowly in processing criminal cases, resulting in lengthy pretrial detention for some suspects. There were two reported instances of physical abuse by police. The Government has identified domestic violence as a serious problem and sponsored a public awareness program to deter such abuse. Abuse of children also remains a problem. Traditional patterns of unequal opportunity for women and racial minorities remain, in spite of continuing government and media efforts to advocate change.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Political and Other Extrajudicial Killing**

There were no reports of political or other extrajudicial killings.

Although labor demonstrations in August in the port of Limon were peaceful, the police used tear gas to disperse a rock-throwing crowd that had barricaded a road near Limon. The use of tear gas resulted in injuries and the death of an asthmatic woman asphyxiated in a nearby house.

The 1992 "Cobra Command" case was finally resolved. A court convicted 3 former members of the Cobra Command--a now-defunct antinarcotics unit of the Rural Guard--for the 1992 murder of 2 suspected drug traffickers, the rape of 2 indigenous women, and the illegal detention and harassment of 11 indigenous people. These crimes occurred during an unsuccessful search for marijuana plantations in the Talamanca region. The court cleared eight former members of the unit of all criminal charges; the authorities could not locate one former member. The court sentenced two of the three guilty Cobra Command members to terms of 42 years and 32 years, for rape, murder, and illegal detention. The third was sentenced to 5 years for rape.

At the end of the year, the three policemen accused in the 1994 *Ciro Monge* case and the seven accused in the 1993 *Malcom* case remained free on bail and awaiting trial. The authorities scheduled the trial in the *Ciro Monge* case for September 1997 but had not set a date for the other trial.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

#### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The Constitution prohibits cruel or degrading treatment and holds invalid any statement obtained through violence. The authorities generally abide by these prohibitions. An effective mechanism for lodging and recording complaints of police misconduct exists. In 1995, the most recent year for which statistics are available, 1,262 cases of police abuse of authority or misconduct were reported. The Ombudsman's office investigates complaints and, where appropriate, initiates suits against officials. In August the authorities charged three police officers with false arrest as a result of a January 1994 complaint brought by the Ombudsman himself. According to the complaint, the officers arrested the Ombudsman after he had questioned the conduct of one of the officers at the scene of a traffic accident. The courts sentenced the three officers to 3 years in prison for false arrest, but suspended the sentences and put them on 5 years' probation and imposed a 6-month prohibition from public or private security

employment.

In January a man accused three Rural Guard members of intimidating a woman and threatening to shoot him when he tried to help her. At year's end, the authorities were investigating the case and had suspended the three policemen. In March a Nicaraguan complained to authorities that three policemen had beaten and illegally detained him earlier that month. In this case the authorities also suspended the accused policemen and were investigating the case.

A large percentage of police personnel owe their appointments to political patronage. The Figueres administration continued implementation of the 1994 Police Code designed to professionalize and depoliticize the police force. The Government's long-term plan is to establish permanent, professional cadres, eventually resulting in a nonpolitically appointed career force. The basic course for new police recruits includes training using a human rights manual developed by the Ministry of Public Security.

Prisoners generally receive humane treatment. While guards rarely abuse prisoners physically, there are credible reports that prisoners are sometimes subjected to other forms of abuse such as extortion. The Prison Rights Ombudsman investigates complaints and refers serious cases of abuse to the Public Prosecutor. Penitentiary overcrowding is a growing problem, with the prison population about 83 percent above planned capacity. Illegal narcotics are readily available in the prisons, and drug use is common. In March the Supreme Court's Constitutional Chamber issued an order to the San Sebastian prison in San Jose--at 123 percent over capacity the third most crowded prison in the country--giving the institution 1 year to achieve minimally acceptable conditions for the prisoners.

The Government permits prison visits by independent human rights monitors.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution and law prohibit arbitrary arrest, detention, or exile, and the Government generally respects these prohibitions.

The law requires issuance of judicial warrants before making arrests. The Constitution entitles a detainee to a judicial determination of the legality of the detention during arraignment before a court officer within 24 hours of arrest. The authorities generally respect these rights.

The law provides for the right to release on bail, and the authorities observe it in practice. Generally, the authorities do not hold detainees incommunicado. With judicial authorization, the authorities may hold suspects for 48 hours after arrest or, under special circumstances, for up to 10 days.

The Constitution bars exile as punishment.

#### e. Denial of Fair Public Trial

The Constitution and law provide for an independent judiciary, and the Government respects this provision in practice. The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right.

The Supreme Court supervises the work of the lower courts, known as tribunals. The Legislative Assembly elects the 22 Supreme Court Magistrates to 8-year terms, subject to automatic renewal unless the Assembly decides otherwise by a two-thirds majority. Accused persons may select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent.

Persons accused of serious offenses and held without bail, however, sometimes remain in pretrial custody for long periods. Lengthy legal procedures, numerous appeals, and large numbers of detainees cause delays and case backlogs. There were 1,281 accused persons, representing 28 percent of the prison population, jailed awaiting trial as of September.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices. Government authorities generally respect these prohibitions, and violations are subject to effective legal sanction. The law requires judicial warrants to search private homes. Judges may approve use of wiretaps in limited circumstances, primarily to combat narcotics trafficking.

### **Section 2 Respect for Civil Liberties, Including:**

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, and the Government respects these rights in practice. An independent press, a generally effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

There are 9 major privately owned newspapers, several periodicals, 6 privately owned television stations, and over 70 privately owned radio stations, all of which pursue independent editorial policies. While the media generally criticize the Government freely, there were unconfirmed allegations that the Government withheld advertising from some publications in order to influence or limit reporting. The Assembly passed a "right of response" law that provides persons criticized in the media an opportunity to reply with equal attention and at equal length. Critics charge that this law could have a chilling effect on press criticism of elected officials.

The Office of Control of Public Spectacles rates films and has the authority to restrict or prohibit their showing; it has similar powers over television programs and stage plays. Nonetheless, foreign and particularly American films spanning the U.S. rating system are offered to the public. A tribunal reviews appeals of the office's actions. In January the Supreme Court's Constitutional Chamber ruled unconstitutional a 1989 decision by the office to prohibit public showing of the film "The Last Temptation of Christ." This film, and the graphic depiction of violence and sex in popular television and movies, have generated heated debate. In May over 70 prominent citizens, decrying "violence, hate, and pornography" in the mass media, signed a public letter to the President urging him to enforce Article 28 of the Constitution, which authorizes the prohibition of acts which "are harmful to morality or public order."

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government respects them in practice.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. While the Constitution establishes Roman Catholicism as the state religion, people of all denominations freely practice their religion without government interference. Foreign missionaries and clergy of all

denominations work and proselytize freely.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government respects them in practice. There are no restrictions on travel within the country, on emigration, or the right of return.

There is a long tradition of providing refuge to people from other Latin American countries. In a controversial decision, the Government in March granted political asylum to former vice president of Ecuador Alberto Dahik. In October 1995 while still vice president, Dahik fled from Ecuador to Costa Rica to avoid arrest on charges of misuse of public funds. Dahik claimed the charges were fabricated by his political enemies. In June the Government allowed Venezuelan citizen Luis Escobar Ugaz to enter the country to apply for political asylum. Ugaz, a member of the Bolivarian Revolutionary Movement, had sought refuge in the Costa Rican embassy in Caracas, claiming persons with connections to the Venezuelan police had kidnaped and tortured him. By year's end, the Government had not yet reached a decision in Ugaz' case.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government makes a distinction between political asylum and refugee status; the issue of the provision of first asylum did not arise. The Constitution specifically prohibits repatriation of anyone subject to potential persecution, and there were no reports of forced expulsion of persons to a country where they feared persecution. The authorities regularly repatriated undocumented Nicaraguans, most of whom entered the country primarily for economic reasons. In August nine Nicaraguans accused border police officials in Los Chiles of using undue force when repatriating them. The Government is investigating the allegations.

### **Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government**

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through free and fair elections held on the basis of universal suffrage and by secret ballot every 4 years. The independent Supreme Electoral Tribunal ensures the integrity of elections, and the authorities and citizens respect election results. The Constitution bars the President from seeking reelection, and Assembly members may seek reelection only after at least one term out of office. In the 1994 elections, President Figueres' National Liberation Party gained a plurality in the Legislative Assembly, winning 28 of 57 seats. The Social Christian Unity Party won 25 seats, the Democratic Force won 2 seats, and 2 provincial parties each garnered 1 seat. After an intraparty dispute, one of the Democratic Force legislators formed a new party in February. As a result, the Democratic Force now has one seat, and the new party--the New Democratic Party--has one seat.

Women encounter no legal impediments to their participation in politics. While they are underrepresented in leadership positions of the Government and political parties, this situation has to change. A woman serves concurrently as Vice President and as a cabinet minister; another woman is Minister of Public Security. In addition, six vice ministers, nine Legislative Assembly members, and five directors of autonomous institutions are women. In June the opposition Social Christian Unity Party reformed its statutes to mandate that a minimum of 40 percent of posts in party councils be occupied by women. Lorena Vasquez became the party's first female Secretary General. The ruling National Liberation Party is also considering statutory reforms to increase female participation in party decisionmaking.

Indigenous people may participate freely in politics and government. In practice, they have not played

significant roles in these areas, except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. Costa Rica's 30,000 blacks, largely resident on the Caribbean coast, enjoy full rights of citizenship, including the protection of laws against racial discrimination. The Legislative Assembly includes one black member; one vice minister is black.

#### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

Various human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are cooperative and responsive to their views. The Costa Rican Commission for Human Rights, the Commission for the Defense of Human Rights in Central America, and the Family and Friends of Political Prisoners of Costa Rica, monitor and report on human rights.

Several international organizations concerned with human rights, including the Inter-American Institute for Human Rights and the Inter-American Court of Human Rights, are located in San Jose.

#### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution pronounces all persons equal before the law, and the Government generally respects these provisions.

##### Women

The Government has identified domestic violence against women and children as a serious societal problem. The authorities have incorporated training on handling domestic violence cases in the basic training course for new police personnel. In April the Legislative Assembly passed the Law Against Domestic Violence, which classifies certain acts of domestic violence as crimes and mandates their prosecution. Previously, courts had sometimes treated such acts as mere infringements of the law and not serious enough to merit prosecution. The law requires public hospitals to report cases of female victims of domestic violence. Television coverage of this issue has increased in news reporting, public service announcements, and feature programs.

Women constitute 49.5 percent of the population. The 1990 Law for the Promotion of the Social Equality of Women not only prohibits discrimination against women but obligates the Government to promote political, economic, social, and cultural equality. In March the Government's National Center for the Development of Women and the Family presented its 3-year National Plan for Equality of Opportunity between Women and Men. The plan is based in great measure on the Platform for Action adopted at the Fourth World Conference on Women in Beijing.

According to the 1993 census, 30 percent of working-age women earn wages outside the home, compared with 79 percent of working-age men. One-fifth of all families depend primarily on the earnings of women. Most women work in the services sector, with others working in industry and agriculture. While laws require that women and men receive equal pay for equal work, average salaries for women remain somewhat below those of male counterparts. According to the 1995 report on human development prepared by the United Nations Development Program, women receive about 83 percent of the salary of men for equal work. The average life expectancy for women increased by 12 years since the early 1970's to 77 years, higher than the 72-year average for men.

##### Children

The Government is committed to children's rights and welfare through well-funded systems of public education and medical care. The Government spends more than 4 percent of GDP on education and over 5 percent on medical care. Accordingly, the country has a high rate of literacy (94 percent) and a low rate of infant mortality (13.4 persons per 1,000). The law requires 6 years of primary and 3 years of secondary education for all children. There is no difference in the treatment of girls and boys in education or in health care services. The autonomous National Institute for Children (PANI) oversees implementation of the Government's programs for children. The Catholic Church is building a home both for teenage mothers and for children with AIDS, which the Church will operate with help from the PANI.

In recent years, the PANI has increased public awareness of crimes against children. In the first 6 months of 1995, the most recent year for which statistics are available, the Institute intervened in 3,800 cases of abandonment, 1,158 cases of physical abuse, 1,318 cases of sexual abuse, and 116 cases of psychological abuse of children. Abuses appear to be more prevalent among impoverished, less-educated families. Traditional attitudes and the inclination to treat such crimes as misdemeanors sometimes hamper legal proceedings against those who commit crimes against children.

In February the PANI announced a comprehensive plan to improve the conditions of the poorest children. According to Institute estimates, 17 percent of children between the ages of 5 and 17 are involved in income-producing activities, and 25,000 children

work rather than attend school. The Government, police sources,

and representatives of the United Nations Children Fund acknowledge that child prostitution is a growing problem but say the exact magnitude of the problem is as yet undetermined. Official sources assert that unofficial studies which estimate that from 2,000 to 3,000 children are involved in prostitution in San Jose are "not scientifically verified."

### People with Disabilities

In May the Law of Equal Opportunity for Persons with Disabilities went into effect. It prohibits discrimination, provides for health care services, and mandates provision of access to buildings for persons with disabilities. A number of public and private institutions have made individual efforts to improve access.

### Indigenous People

The population of about 3.3 million includes nearly 29,000 indigenous people among 8 ethnic groups. Most live in traditional communities on 22 reserves which, because of their remote location, often lack access to schools, health care, electricity, and potable water. The Government, through the National Indigenous Commission, completed distribution of identification cards to facilitate access to public medical facilities. The Government also built a medical clinic and several community health centers in indigenous areas. The Ombudsman has established an office to investigate violations of the rights of indigenous people.

## Section 6 Worker Rights

### a. The Right of Association

The law specifies the right of workers to join unions of their choosing without prior authorization,

although barriers exist in practice. About 15 percent of the work force is unionized, almost entirely in the public sector. Unions operate independently of government control.

Some trade union leaders contend that "solidarity" associations, in which employers provide access to credit unions and savings plans in return for agreement to avoid strikes and other types of confrontation, infringe upon the right of association. After the International Labor Organization (ILO) Committee on Freedom of Association ruled that solidarity associations and their involvement in trade union activities violated freedom of association, the Government amended the Labor Code in 1993. The following year, the ILO Committee of Experts (COE) ruled that these and other planned changes fostered greater freedom of association. In 1995 the COE encouraged the Government to approve legislation to allow unions to administer compensation funds for dismissed workers and to repeal labor code provisions restricting the right to strike in certain nonessential public, agricultural, and forestry sectors. This recommendation remained under government consideration at year's end.

There are no restrictions on the right of private sector workers to strike, but very few workers in this sector belong to unions. Accordingly, private sector strikes rarely occur. The Constitution and Labor Code restrict the right of public sector workers to strike. In August stevedores and other workers from Limon province staged several work stoppages and protests to protest lowered wages, lack of work, and insufficient infrastructure. In September the Government signed an agreement with the activist group "Struggling Limon" to address the needs of this area, site of the country's principal port.

Unions may form federations and confederations and affiliate internationally.

#### b. The Right to Organize and Bargain Collectively

The Constitution protects the right to organize. Specific provisions of the 1993 labor code reforms provide protection from dismissal for union organizers and members during union formation. The revised provisions require employers found guilty of discrimination to reinstate workers fired for union activities.

Public sector workers cannot engage in collective bargaining because the Public Administration Act of 1978 makes labor law inapplicable in relations between the Government and its employees. Private sector unions have the legal right to engage in collective bargaining.

All labor regulations apply fully to the country's nine export processing zones (EPZ's). The Labor Ministry oversees labor regulations within the EPZ's, but acknowledged that it has only 1 inspector for every 30,000 workers.

#### c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, and there were no known instances of such practices.

#### d. Minimum Age for Employment of Children

The Constitution provides special employment protection for women and children and establishes the minimum working age at 12 years, with special regulations in force for workers under the age of 15. Children between 15 and 18 years of age can work a maximum of 7 hours daily and 42 hours weekly, while children between the ages of 12 and 15 can work a maximum of 5 hours daily and 30 hours weekly. The PANI, in cooperation with the Labor Ministry, effectively enforces these regulations in the

formal sector. After two adolescents died from chemical poisoning while working on banana plantations in 1993, the authorities prohibited employment of youths under the age of 18 in the banana industry. Nonetheless, child labor remains an integral part of the large informal economy. According to a PANI survey, about 152,000 children worked during 1995, of whom nearly 93,000 had prior PANI approval.

#### e. Acceptable Conditions of Work

The Constitution provides for a minimum wage. A National Wage Council, composed of three members each from government, business, and labor, sets minimum wage and salary levels for all sectors. Monthly minimum wages, last adjusted in July for the private sector, range from \$122 (25,636 colones) for domestic servants to \$591 (124,255 colones) for certain professionals. Public sector negotiations, based on private sector minimum wages, normally follow the settlement of private sector negotiations. The Ministry of Labor effectively enforces minimum wages in the San Jose area, but less effectively in rural areas. Workers with families at the lower end of the wage scale, as well as those in the middle class, encounter difficulty in keeping up with the rising cost of living.

The Constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Although often circumvented in practice, it also requires compensation for discharge without due cause. Generally, workers may work a maximum of 8 hours during the day and 6 at night, up to weekly totals of 48 and 36 hours, respectively. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. Agricultural workers do not receive overtime, however, if they voluntarily work beyond their normal hours. Little evidence exists that employers coerce employees to perform such overtime.

For several years, the ILO COE asked the Government to enact provisions regarding accident prevention for seafarers, as required by ILO Convention 134 on the "Prevention of Accidents (Seafarers)." The COE had not yet received the requested regulations at year's end.

A 1967 law on health and safety in the workplace requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the Government to inspect workplaces and to fine employers for violations. Most firms subject to the law establish such committees but either do not use the committees or neglect to turn them into effective instruments for improving workplace conditions. While workers have the right to leave work if conditions become dangerous, workers who do so may find their jobs in jeopardy unless they file written complaints with the Labor Ministry. Due partly to budgetary constraints, the Ministry has not fielded enough labor inspectors to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside San Jose.

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