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## U.S. Department of State

### Costa Rica Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

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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 specialized units such as the antidrug police--and the Ministry of the Presidency share responsibility for law enforcement and national security. In 1996 the Government combined several police units within the Ministry of Public Security, including the Border Guard, the Rural Guard, and the Civil Guard, into a single "public force." Public security forces generally observe procedural safeguards established by law and the Constitution.

The market economy is based primarily on agriculture, light industry, and tourism. After a 1 percent decline in 1996, economic growth was projected at 1.5-2 percent. Government fiscal difficulties continued, with the public sector deficit projected to amount to 4 percent of gross domestic product (GDP). The Constitution protects the right to private property; however, domestic and foreign property owners encounter considerable difficulty gaining adequate, timely compensation for lands expropriated for national parks and other purposes. The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property.

Citizens enjoy a wide range of individual rights and freedoms. The Government generally respects the

human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Nonetheless, the judicial system moves very slowly in processing criminal cases, resulting in lengthy pretrial detention for some suspects. Citizens reported 11 instances of physical or verbal abuse by police to the Ombudsman of the Republic. 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.

The judicial system resolved the 1993 Malcolm case, in which seven judicial police officers allegedly beat a presumed street gang member, William Lee Malcolm, who died shortly thereafter while in custody. In July a San Jose court found insufficient evidence to convict the seven former officers on charges of murder and aggravated deprivation of liberty. The same court, however, convicted all seven defendants of abuse of authority. Each former officer received a 4-year suspended sentence and was barred from public sector employment for 1 to 2 years.

In September a criminal court found two of three former judicial police officers guilty of the 1994 murder of farmer Ciro Monge; the third officer awaited trial at year's end. The court sentenced the two men to 12 years in prison and \$200,000 in fines and costs.

#### **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. As of August, the Ombudsman's office had received 122 reports of police abuse of authority or misconduct. The Ombudsman's office investigates complaints and, where appropriate, initiates suits against officials. In June a man accused judicial police officers of beating and illegally detaining him while the officers were pursuing alleged bank robbers. At year's end, the authorities 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 depoliticize and professionalize 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. Prisoners are separated by gender and by level of security, minimum, medium, and maximum. There are separate juvenile detention centers. Illegal

narcotics are readily available in the prisons, and drug use is common. 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 remained a problem, with the prison population about 50 percent above planned capacity. The Government is expanding five prisons to address this problem. In March 1996, the Supreme Court's Constitutional Chamber issued an order to the San Sebastian prison in San Jose, giving the institution 1 year to achieve minimally acceptable conditions for the prisoners. As of August, that prison was still 121 percent above capacity, a slight decline reflecting the transfer of many long-term prisoners to other institutions.

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 933 accused persons, representing 19 percent of the prison population, jailed awaiting trial as of August.

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.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Landowners in Pavones, Golfito, have a 10-year history of conflict with squatters, which includes frequent violent invasions. In November squatter Alvaro Aguilar and Max Dalton, a U.S. citizen landowner, were killed during a confrontation with squatters who had invaded Dalton's property. Although the authorities charged a suspect in the case, he remains free at the judge's discretion. President Figueres appointed First Vice President Rodrigo Oreamuno to head a cabinet-level commission to investigate the case.

Municipal officials in Pavones, including the municipal president, encouraged squatter invasions of private property. In October a municipal order allowed squatters to enter Dalton's property. After the November confrontation during which Aguilar and Dalton were shot and killed, the municipal council revoked the order, saying that it had been improperly issued. There is evidence of complicity between the squatters and the authorities, which apparently gave tacit approval to the type of violent tactics that resulted in these deaths. The initial police investigation into these shooting deaths was not thorough and raised questions about the integrity of law enforcement in the Golfito region.

## **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. In 1996 the Legislative Assembly passed a "right of response" law that provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. While the print and electronic media continued to criticize public figures, the law has proven difficult for media managers to administer. On occasion, some media outlets delayed printing responses because submissions were not clearly identified as replies to previously published items. In one case, a judge temporarily impounded the assets of the daily newspaper *Diario Extra* because the newspaper allegedly did not publish a response within the stipulated time frame.

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.

### **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. Religious education teachers, including those in public schools, must be certified by the Roman Catholic episcopal conference. 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 July the Government declined to grant asylum to 16 indigenous Hondurans who had peacefully occupied the Costa Rican embassy in Tegucigalpa, saying that the Hondurans had not demonstrated credible fears of persecution. The Government granted asylum to Venezuelan Luis Escobar Ugaz. Ugaz, a member of the Bolivarian Revolutionary Movement, entered Costa Rica in June 1996, after seeking refuge in the Costa Rican embassy in Caracas.

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.

Allegations of abuse by Border Police periodically arise. Although instances of physical abuse appear to have declined, there were credible reports of extortion of migrants by border officials. In May President Figueres signed an accord with Nicaraguan President Miguel Aleman to normalize the status of some of the approximately 400,000 Nicaraguans residing illegally in Costa Rica. The agreement permits Nicaraguans to obtain residency with a special worker passport and a valid employment contract.

### **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 (PLN) gained a plurality in the Legislative Assembly, winning 28 of 57 seats. The Social Christian Unity Party (PUSC) 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 1996. As a result, 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. The Minister of Public Security, eight legislative assembly deputies, and five directors of autonomous institutions are women. In February the Legislative Assembly selected assembly Deputy Sandra Pizsk as Ombudsman, a key autonomous post created in 1993 to protect the rights and interests

of citizens in their dealings with the Government. In May the Supreme Court appointed Linette Saborio as the Director General of the judicial investigative organization. The opposition PUSC mandates that a minimum of 40 percent of posts in party councils be occupied by women. The ruling PLN adopted this same 40 percent goal in May. In October the PUSC selected two women as its nominees for first and second vice president, marking the first time that a major political party nominated women for both vice presidencies. The PLN also chose two women as its vice presidential candidates for the February 1998 national elections.

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. One of 57 members of the National Assembly identifies himself as part indigenous. The country'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. The Law Against Domestic Violence classifies certain acts of domestic violence as crimes and mandates their prosecution. An old law permits a judge to pardon a man accused of statutory rape if the perpetrator intends to marry the victim, she and her family acquiesce, and the National Institute for Children does not object. This law has not been applied in recent years, and it is expected to be overturned by pending legislation. The domestic violence law requires public hospitals to report cases of female victims of domestic violence. It also denies the perpetrator possession of the family home in favor of the victim. Television coverage of this issue has increased in news reporting, public service announcements, and feature programs. Reports of violence against women have increased, likely reflecting a greater willingness of victims to report abuses rather than an actual increase in instances of violence against women. The law against sexual harassment in the work place and educational institutions seeks to prevent and punish sexual harassment in those environments.

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 1996, 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 1995 census, women represent 30 percent of the labor force. 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 United Nations Development Program, women occupy 21 percent of executive and management positions and nearly 45 percent of professional and technical positions. 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 over 5 percent of GDP on medical care. In June the Legislative Assembly passed a constitutional amendment increasing spending on education from 4 percent to 6 percent of GDP. The country has a high rate of literacy (95 percent) and a low rate of infant mortality (13 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. In December 1996, the Assembly passed a law strengthening PANI's role in protecting and promoting the rights of children, in accordance with the precepts of the United Nations Convention on the Rights of the Child.

In recent years, the PANI has increased public awareness of crimes against children. In 1996, the most recent year for which statistics are available, the Institute intervened in 3,161 cases of abandonment, 1,030 cases of physical abuse, 1,195 cases of sexual abuse, and 98 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 1996, 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's Fund acknowledge that child prostitution is a growing problem. Although no official statistics exist, the PANI has identified street children in the urban areas of San Jose, Limon, and Puntarenas as being at the greatest risk. The PANI estimates that as many as 3,000 children in metropolitan San Jose are involved in prostitution. In April the Institute launched a campaign against child prostitution in cooperation with police, airport immigration authorities, and hotel operators.

### People With Disabilities

The Equal Opportunity for Persons with Disabilities Law prohibits discrimination, provides for health care services, and mandates provision of access to buildings for persons with disabilities. This law is not widely enforced and many buildings remain inaccessible to persons with disabilities. Nonetheless, a number of public and private institutions have made individual efforts to improve access. In March the

Ministry of Public Education announced that students with disabilities may enroll in the school of their choice without impediment. The PANI and the Ministry published specific classroom guidelines for assisting children with hearing loss, motor difficulties, attention deficit, and mental retardation.

## 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 May workers from the state-owned electric and telecommunications utility staged a brief work stoppage to call attention to proposals for restructuring the utility. Although workers demonstrated in several cities, the protests failed to attract significant worker support. Utility operations were not disrupted and the work stoppage concluded peacefully.

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. Laws prohibit forced and bonded labor by children, and the Government enforces this prohibition effectively.

#### d. Status of Child Labor Practices and Minimum Age for Employment

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. Laws prohibit forced and bonded labor by children, and the Government enforces this prohibition effectively. 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, generally enforces these regulations in the formal sector. Due to limited government resources for enforcement, some children work on the fringes of the formal economy in excess of these limits. 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 \$128 (30,179 colones) for domestic employees to \$622 (146,274 colones) for some 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. Especially at the lower end of the wage scale, the minimum wage is insufficient to provide a worker and family a decent standard 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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