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1999 Country Reports on Human Rights Practices

Released by the Bureau of Democracy, Human Rights, and Labor
U.S. Department of State, February 25, 2000

COSTA RICA

Costa Rica is a longstanding, stable, constitutional democracy with a unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. Miguel Angel Rodriguez of the Social Christian Unity Party (PUSC) won the presidency in the February 1998 elections, in which approximately 70 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. The economy grew 8.3 percent in 1999, compared with 6.2 percent in 1998. The central government deficit narrowed in real terms to 3.1 percent of gross domestic product (GDP) compared with 3.3 percent in 1998; however, the public sector deficit widened to an estimated 4 percent of GDP, compared with 3.3 percent in 1998. 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.

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, there were problems in a few areas. The judicial system moves very slowly in processing criminal cases, resulting in lengthy pretrial detention for some persons charged with crimes. Domestic violence is a serious problem, and abuse of children also

remains a problem. Traditional patterns of unequal opportunity for women remain, in spite of continuing government and media efforts to advocate change. Child labor persists.

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.

In September 1997, 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 (50 million colones) in fines and costs. The two convicted officers appealed the rulings and lost; one fled the country in 1998 but was captured and expected to be returned to serve his sentence.

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. The Ombudsman's office serves as a recourse to citizens that have complaints about violations of their civil and human rights and about deficiencies in public and private infrastructure. It investigates complaints and, where appropriate, initiates suits against officials. The Ombudsman's office received 14 reports of police abuse of authority or misconduct during the year, compared with 4 complaints in 1998.

A large percentage of police personnel owe their appointments to political patronage. The Rodriguez 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 sex 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. The Ombudsman's office notes that complaints about physical and psychological abuse of prisoners by guards increased during the year. The office received six such complaints of physical abuse, compared with two in 1998, and six complaints of psychological abuse, compared with four in 1998. The Ombudsman's office investigates complaints and refers serious cases of abuse to the public prosecutor.

Penitentiary overcrowding remained a problem, with the prison population estimated at 67

percent above planned capacity. The Government is expanding six 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, occupancy in that prison was 108 percent above capacity, an increase from 88 percent the previous year. The Government approved the budget for a series of detention facilities in outlying provinces, which are expected both to reduce overcrowding and to locate prisoners closer to their families.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution and law prohibit arbitrary arrest and detention, 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, and it is not used.

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 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 1,109 accused persons, representing 17 percent of the prison population, jailed awaiting trial as of August 13.

There were no reports of political prisoners. However, one individual is jailed for committing crimes against the State (politically motivated acts of violence) in the 1980's. The human rights group Families for the Defense of Political Prisoners and Human Rights considers this person to be a political prisoner.

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 throughout the country have suffered frequent squatter invasions for years. President Rodriguez made it a priority to reduce these conflicts, increase public security, and regularize land tenure. The Legislative Assembly is reexamining laws that give title through adverse possession. As a result, squatter invasions are occurring with increasing frequency in anticipation of the land tenure regularization.

On May 25, Public Security officers removed 350 squatter families, a total of 750 persons, from a parcel of land near San Jose. On June 30, officials removed 300 squatter families, a total of around 1,500 persons, from another parcel of land near San Jose. The authorities conducted these evictions lawfully, and there were no credible accounts of abuses by the officers who enforced the evictions.

The case of the 1997 shootings in the Pavones region of landowner Max Dalton and squatter Alvaro Aguilar was resolved in March when a court absolved the accused killer of Dalton. Press reports indicated that the investigators believed the two men shot each other; charges were never pressed against the first suspect in the case.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of 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.

There are 6 major privately owned newspapers, several periodicals, 20 privately owned television stations, and over 80 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 May a court absolved a reporter and an editor from the daily newspaper La Nacion of libel charges.

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. Print and electronic media continued to criticize public figures; however, media managers have found it difficult to comply with provisions of this law. Editors have called for a change in the press law, although media managers generally have been successful in defending themselves and their reporters against libel suits.

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, a wide range of foreign films are available to the public. A tribunal reviews

appeals of the office's actions.

The Government respects academic freedom.

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.

The law provides for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has admitted approximately 5,000 persons as refugees under terms of the convention. 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. However, following Hurricane Mitch in 1998, the Government announced a program of general amnesty for all Nicaraguans, Hondurans, and Salvadorans in the country prior to November 9, 1998. By mid-August, 160,000 Nicaraguans had been processed for legal residence status, although not all were expected to qualify. There are an estimated 150,000 Nicaraguans residing legally, and another 150,000 who have not applied for amnesty or who entered the country after the November deadline.

Allegations of abuse by the Border Guard periodically arise. Although instances of physical abuse appear to have declined, there were credible reports of extortion of migrants by border officials.

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 1998 elections, President Rodriguez's Social Christian Unity Party won a plurality in the Legislative Assembly, winning 27 of 57 seats. The National Liberation Party (PLN) won 23 seats, the Democratic Force won 3 seats, and 4 minor parties--the Labor Action, National Integration, Costa Rican Renovation, and Libertarian Movement parties--each won 1 seat.

Women encounter no legal impediments to their participation in politics. Although underrepresented overall, women are represented increasingly in leadership positions in the Government and political parties. Both vice presidents (who are also cabinet members), the Minister of Justice, the Minister of Women's Affairs, and 11 legislative assembly deputies are women. Sonia Picado, leader of the PLN, the principal opposition party, is also a woman. Former Assembly Deputy Sandra Pizsk continues as Ombudsman, a key autonomous post created in 1993 to protect the rights and interests of citizens in their dealings with the Government, and Linette Saborio remains the Director General of the judicial investigative organization. The PUSC mandated that a minimum of 40 percent of posts in party councils be occupied by women and created the new Ministry of Women's Affairs, headed by Dr. Yolanda Ingianna Mainieri. In 1998 female legislators formed the Foundation of Women Parliamentarians of Costa Rica to commemorate the 45th anniversary of the first female members of the Assembly. The group's principal focus is promoting women's involvement in politics, but it also works for a number of social objectives, including the decentralization of government.

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. Nonetheless, they account for about 1 percent of the population, and their approximately 20,000 votes constitute an important swing vote in national elections. None of the 57 members of the National Assembly identifies himself as indigenous. There are two black members of the Assembly. The country's 100,000 blacks, largely resident on the Caribbean coast, enjoy full rights of citizenship, including the protection of laws against racial discrimination.

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, as does the Ombudsman's office.

The Legislative Assembly elects the Ombudsman for a 4-year, renewable term. The Ombudsman's office is part of the legislative branch, ensuring a high degree of

independence from the executive branch. The law provides for the functional, administrative, and judgmental independence of the Ombudsman's office, which is held by Sandra Pizsk.

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 into 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; however, this law has not been applied in recent years. 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 public prosecutor, police, and the Ombudsman all have offices dedicated to this problem. The law against sexual harassment in the work place and educational institutions seeks to prevent and punish sexual harassment in those environments.

Prostitution and sex tourism are both legal. The prohibition against trafficking in women for the purpose of prostitution was made stricter by a statute that went into effect on August 17, although there have been only infrequent and isolated cases in the past (see Section 6.f.).

Women constitute 50.1 percent of the population. Upon forming his cabinet, newly elected President Rodriguez created the Ministry of Women's Affairs. The 1990 Law for the Promotion of the Social Equality of Women not only prohibits discrimination against women but also 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 in 1995.

According to the United Nations Development Program (UNDP) 1999 Human Development Report, women represent 31 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 1997 UNDP data, women occupy 45 percent of executive, management, and technical positions. The average life expectancy for women has increased by 14 years since the early 1970's to 79.2 years, higher than the 74.5-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 1998, 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 (14 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 U.N. Convention on the Rights of the Child.

In recent years, the PANI has increased public awareness of crimes against children. For the period from January to June, the Institute intervened in 2,154 cases of abandonment, 671 cases of physical abuse, 468 cases of sexual abuse, and 680 cases of psychological abuse of children. (Psychological abuse cases increased sharply because the 1997 Code of Childhood and Adolescence redefined such abuse and increased awareness of it.) Abuses appear to be more prevalent among poor, 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, 19 percent of children between the ages of 5 and 17 are employed in domestic tasks, while 15 percent work outside the home. 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. On July 29, the Legislative Assembly passed a law making it a crime to engage in prostitution with minors. The Government took steps to enforce this law, and has raided brothels and arrested clients.

People with Disabilities

The 1996 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 enforced widely, and many buildings remain inaccessible to persons with disabilities. Nonetheless, a number of public and private institutions have made individual efforts to improve access. The PANI and the Ministry of Education published specific classroom guidelines for assisting children with hearing loss,

motor difficulties, attention deficit disorder, and mental retardation.

Indigenous People

The population of about 3.5 million includes nearly 40,000 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. In June 1998, the Rerum Novarum Workers Confederation complained about government noncompliance with commitments to protect worker rights but withdrew the complaint after the Rodriguez administration asked for a reasonable period to demonstrate its commitment to worker rights. Some labor unions did not support the complaint because they believed that it interfered with the administration's national reconciliation process; Rerum Novarum considers the complaint still to be active.

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. However, in February 1998, the Supreme Court formally ruled that public sector workers, except those in essential positions, have the right to strike. Even before this ruling, the Government had removed penalties for union leaders participating in such strikes.

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. However, the Supreme Court affirmed their right to strike (see Section 6.a.). In August the Government negotiated a wage increase following a 7-day strike by public sector workers. 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. The Legislative Assembly adopted the Code on Childhood and Adolescence in December 1997, which includes provisions designed to implement the U.N. Convention on the Rights of the Child. The Constitution and the Labor Code also provide special employment protection for children and establish the minimum working age at 15 years. Adolescents between the ages of 15 and 18 can work a maximum of 6 hours daily and 36 hours weekly, while children under age 15 cannot work legally. The PANI, in cooperation with the Labor Ministry, generally enforces these regulations in the formal sector. The Ministry of Labor reported that up to 147,000 children between 5 and 17 years of age are employed. With help from the ILO, the Labor Ministry is working to phase out child labor and has asked employers of children to notify the Ministry of such employment. 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 informal economy, which employs a significant proportion of the labor force. Laws prohibit forced and bonded labor by children, and the Government enforces this prohibition effectively (see Section 6.c.).

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 \$132 (38,303 colones) for domestic employees to \$640 (185,653 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 does so 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. However, agricultural workers do not receive overtime pay, if they voluntarily work beyond their normal hours. Little evidence exists that employers coerce employees to perform such overtime.

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. However, the Ministry of Labor has decided to improve the labor inspection function on a priority basis.

f. Trafficking in Persons

The law prohibits trafficking in women for the purpose of prostitution, and on August 17, a statute went into effect that strengthens this prohibition. There have been only infrequent and isolated cases of trafficking in women in the past (also see Section 5). A local NGO reports that girls from Costa Rica have been transported through Central America and Mexico to work in the sex trade in the United States, Canada, and Europe. There were also reports of girls from the Philippines being trafficked to Costa Rica to work in the sex trade. Local authorities lack the resources necessary to tackle this problem; there is little in the way of government protection, aid, or educational campaigns for persons who have been trafficked to or from the country.

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