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## I. LAND AND PEOPLE

1. The national territory is bounded by the Caribbean Sea, the Pacific Ocean and the republics of Nicaragua and Panama. The boundaries of the Republic are those fixed by the Canas-Jerez Treaty of April 15, 1858, confirmed by the Cleveland Award of March 22, 1888, with respect to Nicaragua, and the Echandi Montero-Fernandez Jaen Treaty of May 1, 1941, in regard to Panama. Coco Island, located in the Pacific Ocean, forms a part of the national territory.

### A. Language

2. The national language of Costa Rica is Spanish (art. 76 of the Political Constitution), and English is spoken on the Caribbean seaboard.

### B. Education

3. The essential nature of education as a basic human right obliges both the State and society to prepare and implement concrete measures aimed at providing an education for all Costa Ricans, in accordance with article 78 of the Political Constitution ("General basic education is compulsory; this, the pre-school stage, and diversified education are free and supported by the nation..."), and by Education Law No. 2160 of 1957.

4. With a view to fulfilling these commitments under present-day conditions, in the framework of the education policy for the twenty-first century approved by the Higher Council for Education in 1994, the Ministry of Public Education (MEP) has opened a national debate on two important legal initiatives: the proposed amendment of article 78 of the Political Constitution intended to introduce compulsory pre-school education and set the level of State investment in education at 6% of GNP, and a bill on basic essentials and guarantees for the expansion and continuous improvement of the national education system, which will address, over a ten-year period, thirteen objectives relating to strategic areas of education, including quality, coverage, facilities, teacher incentives, and training.

5. Enrolment across all educational levels rose to 787,546 students, a total 14,907 greater than in 1995 (increase of 1.9%). Two-thirds of enrolments were in primary education (65.9%), a quarter in secondary (26.4%) and the remainder at the pre-school level. Within the secondary sector, four out of every five pupils were in academic education and the rest in technical education (table 1).

6. The Costa Rican education system divides into a formal sector, which includes the areas covered by the Education Act (pre-school, primary, secondary and university) backed by adult education (primary and secondary systems), special education and para-university higher education, and a non-formal sector providing a wide range of study options which do not call for formal education requirements and are not generally recognized by the State.

7. The latter include the National Institute of Apprenticeship (INA), a public institution responsible for educating the workforce through vocational training.

Table 1  
Initial enrolment according to level and type  
of educational sector, 1994-96

Level of sector	Initial enrolment			Relative distribution		
	1994	1995	1996	1994	1995	1996
TOTAL	747,557	772,639	787,546	100.0	100.0	100.0
Pre-school	55,125	58,371	60,710	7.4	7.6	7.7
Primary	495,879	507,037	518,603	66.3	65.8	65.9
Secondary	196,553	207,231	208,233	26.3	26.8	26.4
Academic	160,340	167,709	168,845	21.4	21.7	21.4
Technical	36,213	39,522	39,388	4.9	5.1	5.0
TOTAL	747,557	772,639	787,546	100.0	100.0	100.0
Public	685,342	708,577	717,958	91.7	91.7	91.2
Private	42,934	45,288	50,692	5.7	5.9	6.4
Semi-public	19,281	18,774	18,896	2.6	2.4	2.4

Source: National Panorama 1996, Ministry of Planning and Economic Policy (MIDEPLAN)

8. In 1996, the level of real per capita investment in education exceeded 29,500 colones, an increase of 22.5% over 1990. Education accounts for 25% of public investment in the social sector. However, in recent decades the quality of the service has been sacrificed for quantity (State of the Nation, 1996).

9. Historically, Costa Rica has invested great effort and considerable funding in public education, a factor that has benefited its development and facilitated social mobility. A useful indicator in this regard is the educational level of the parents of university students, as shown in table 2.

10. Only around 30% of the parents of university students in 1996 had undertaken any higher education. By contrast, 53% of the population aged over 12 years had some primary education, and only 10% had achieved any level of higher education (State of the Nation, 1996).

11. These results show that, although the children of parents with higher education attend university in greater numbers than the children of parents with a primary education, higher education is becoming a factor in upward social mobility (State of the Nation, 1996).

Table 2  
Students in State universities according to  
the educational level of parents, 1996 (%)

	Institutions*			TOTAL
	University of Costa Rica	Costa Rican Technical Institute	National Autonomous University	
<b>FATHER</b>				
None	2.6	2.2	5.6	3.5
Incomplete primary	15.6	15.6	23.4	18.0
Completed primary	16.2	19.5	22.9	18.8
Incomplete secondary	12.5	15.7	13.4	13.2
Completed secondary	10.0	10.7	9.2	9.9
Incomplete university	10.4	10.7	7.2	9.4
Completed university	26.1	19.6	14.4	21.5
Para-university	4.3	3.1	2.0	3.4
Other	2.3	2.9	1.9	2.3
<b>MOTHER</b>				
None	2.0	1.6	4.6	2.8
Incomplete primary	14.5	14.6	23.0	17.2
Completed primary	18.6	22.9	24.6	21.1
Incomplete secondary	15.1	16.9	15.0	15.3
Completed secondary	12.7	11.8	10.3	11.8
Incomplete university	8.8	8.3	5.5	7.7
Completed university	22.1	19.1	13.3	18.9
Para-university	4.4	3.0	2.1	3.5
Other	1.9	1.6	1.6	1.8

Source: CONARE, Office for Planning in Higher Education (State of the Nation, 1996)

\* No information is available for the State Distance-Learning University

12. A programme to improve the quality of education in high-priority urban areas has not progressed as well as expected, owing to budgetary reasons. In 1996, 12 of the 32 schools given special attention were in San Jose (37.5%). Less has been done at the regional offices in San Carlos, Santa Cruz, Nicoya and Alajuela, each of which accounts for 3% (State of the Nation, 1996).

### C. Economic Structure

13. The Costa Rican economy is now in a more streamlined and balanced state, but is still that of a developing country. Basically, the raw materials exported are too vulnerable to price changes on the world market. Although industry is recovering, it is still at an early stage and must therefore import increasingly expensive machinery and capital goods. Among the worst consequences of this situation are inflation and increasing external debt.

14. In 1980, after three decades of economic growth, Costa Rica faced one of the most serious crises in its history. The effects of the global crisis and the increasing external debt took their toll of a weak national economy. The government of the time responded to the crisis and the international pressures by suspending unilaterally its external debt repayments, which led to the loss of credit lines, particularly those of a short-term nature. The country fell into sharp recession, whose indicators in 1982 included a 7.2% decrease in GDP, with inflation running at almost 100% by the end of the year. Successive administrations employed, in varying degree, stabilization policies designed to balance global factors and improve productivity, and measures intended to achieve structural change and commercial liberalization. Although this achieved some streamlining of public spending and the State apparatus, it also reduced the consumer capacity of the population, which in turn affected the expansion of production and reduced social investment in health, education and housing.

15. Despite the continuing existence of a large middle class poverty increased, without falling back to the levels of the 1970s. Women have been worst affected by poverty, and comprise the majority of those in extreme poverty, as shown in table 3.

Table 3  
Non-poor, poor and extremely poor population, by sex  
(July 1996)

Sex	Extreme poverty	Poor	Non-poor	Others	Total
Women	9.02	13.92	60.25	16.81	100.0
Men	5.02	12.10	68.38	14.5	100.0

Source: National Statistics and Census Bureau (DGEC), 1997. National Survey of Multi-purpose Households (DGEC, 1997).

16. According to estimates by the Regional Employment Programme for Latin America and the Caribbean (PREALC/ILO, 1990), 25% of the Costa Rican population was poor in 1989, with 70% of those living in rural areas. The Ministry of Planning and Economic Policy identified 20.62% of families as poor in 1995. Impoverishment has been concentrated in rural areas and in cantons having a population density less than 100, where there is little access to land and productive resources, communications are difficult, and basic services are lacking. Urban poverty is found mainly in the metropolitan area of San Jose, at

the same levels as during the 1980s. Twenty-three per cent of these households live in extreme poverty (Pan-American Health Organization (PAHO/WHO)). Although a large middle class exists, its standard of living has declined owing to the worsening of the economic crisis.

17. An increase in the number of female heads of household began to be evident in 1980, a trend which intensified during the 1990s as a result of demographic changes and the economic crisis. Despite inconsistent sources and the fact that data are analyzed only in terms of heads of household and not according to poverty level, it may be said that in 1995 some 22-23% of all poor families were headed by a woman. In that year the National Plan to Combat Poverty identified 47,000 such women, 78 % of whom were aged between 30 and 69 (United Nations Population Fund (UNFPA)/MIDEPLAN/National Centre for Women and the Family, 1995).

#### D. Labour structure

18. Costa Rica has been unable to regain its former level of development since the economic crisis of the 1980s, even though matters have not been as serious as in other countries of Central and South America. Many of the alternative products introduced have not attracted investment, and industry has failed to adapt at the pace required by globalization and the liberalization of trade.

19. The recovery achieved since the crisis of 1981-82 is largely the result of a resumption in exports of coffee, bananas and non-traditional primary products. Industrial production has regressed, although some ground has been made up, mainly through a rise in informal activities in towns. For example, many women have taken advantage of the more flexible recruitment conditions associated with an increased amount of assembly work being made available. However, the working conditions are discriminatory, especially for those engaged in piecework either at home or as part of an association. The same situation can be seen in agriculture (Institute for Women and Latin American Faculty of Social Sciences (FLACSO), 1993; Guzman Stein, 1991 and 1995).

20. According to the National Survey of Multi-purpose Households, by July 1996 the Costa Rican workforce had increased to 1,220,440; 69.90% were male, and 30.1% female. The male workforce represented 26.64% of the population, and the female 11.48%. Although women have always contributed to national production, their involvement has been hidden, much of it taking the form of housework, unpaid domestic work or seasonal activities such as coffee picking. Women have regarded these tasks as part of their domestic responsibilities, and the institutions that record information have failed to ask questions designed to reflect the true scale of women's work and their contribution to national output.

21. Despite such problems, in the past three decades women's participation in the Economically Active Population (PEA) has increased significantly, accounting for 27.59% in 1980, 29.90% in 1992 and 30.14% in 1996. The growth of the female workforce in relation to the male was very marked during the period 1970-90. The increase for males was 92.9%, and for females 142.9%. The trend is shown more clearly by the following table.

Table 4  
Net participation rates in the workforce, by sex and year,  
1984-1996

	1980	1984	1988	1992	1996
Women	28.6	28.2	30.4	30.0	31.1
Men	77.1	75.8	77.4	74.0	73.7

Source: DGEC 1997; FNUAP/MIDEPLAN/CMF (1995). Gender images. Socio-demographic and economic statistics analyzed by gender. Costa Rica: 1990-1994, San Jose, Costa Rica, MIDEPLAN (then: FNUAP/MIDEPLAN/CMF, 1995).

22. Between 1995 and 1996, the female participation rate decreased owing to a drop in vacancies and a rise in female unemployment. This situation was obscured by the fact that a large proportion of the female workforce unemployed for over six months was recorded as inactive.

23. Since the 1981-82 crisis, it is mostly the male workforce whose situation has improved. Table 5 shows that the highest rates of long-term unemployment mainly concern women, with fluctuations at different times. Female unemployment is at its worst in rural areas. For example, in 1991 the rural female unemployment rate was 8.3 %, as against 6.7% in towns. In 1996, there was a marked difference between the relative increases in female unemployment (7.6 % in towns, 9.2% in rural areas).

Table 5  
Long-term unemployment in the workforce, by sex, 1990-96 (%)

	1990	1991	1992	1993	1994	1995	1996
Both sexes	4.6	5.5	4.1	4.1	4.2	5.2	6.2
Men	4.2	4.8	3.5	3.6	3.5	4.6	5.3
Women	5.9	7.4	5.4	5.3	5.8	6.6	8.3

Source: DGEC, 1997; FNUAP/MIDEPLAN/CMF, (1995).

#### E. Drug consumption

##### 1. Psychotropic Drugs Act

24. On the basis of total numbers of complaints heard by the authorities in respect of breaches of the Psychotropic Drugs Act and their respective rates per 1000 inhabitants, it can be seen that such offences increased gradually each year from 1990, peaking in 1993 at 66 offences per 100,000 inhabitants. In the



final three years the rate stabilized at 61 per 100,000. (Table 6) (State of the Nation, 1996).

Table 6

Offences against the Psychotropic Drugs Act

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996*</u>
Consumption of drugs or marijuana**	0	11	82	119	203	84	59
Growing of marijuana	69	85	115	99	37	55	26
Possession of drugs and marijuana	659	710	1,119	1,198	915	1,109	1,203
Possession of marijuana seeds	3	5	21	12	23	7	12
Trafficking in drugs and marijuana	246	291	236	317	221	263	233
Other	328	306	441	419	449	517	594
Total Offences	1,305	1 408	2,014	2,164	1,848	2,035	2,127
Rates (%)	43	45	63	66	55	59	61

\* The figures for 1966 are provisional

\*\* The Act penalizes consumption in public places.

Source: Judicial Power, Department of Planning, Statistical Section.

25. The general tendency in the countries of the region, based on the incomplete information arising from confiscations and on the opinions of experts working in the penal justice system, indicates that production, trafficking and consumption of drugs have spread in recent years and that the results of the strategies adopted at international level are at least debatable. Action taken by the courts with regard to breaches of the Psychotropic Drugs Act, as measured by the ratio between sentences passed and the total number of complaints lodged on those grounds, is clearly on the increase; each year there is a greater number of sentences as a proportion of cases heard (table 7).

Table 7

Persons sentenced for breach of the Psychotropic Drugs Act as a percentage of complaints brought on those grounds, 1990-96

<u>Year</u>	<u>Sentences</u>	<u>as % of complaints</u>
1990	186	14.3
1991	155	11.0
1992	195	9.7
1993	186	8.6
1994	337	18.2
1995	410	20.1
1996	402	18.9

Source: Judicial Power, Department of Planning, Statistical Section.

2. Drug-taking

26. The Alcoholism and Drug-Addiction Institute (IAFA) has provided some of the results of its 1995 national survey on drug-taking (table 8):

Table 8

Users of "crack", by age at time of interview, 1995 (%)

Age	Type of user			Total
	Active	Inactive*	Ex-user	
12-20	100	---	---	100
21-29	60	20	20	100
30-38	33.3	50	16.7	100
39 and over	---	---	---	---

\* User for more than one month but less than one year.

27. The overall level of inhalant use is the same as in 1990 (0.2%). The limited number of cases in a survey of this kind makes it impossible to draw any statistical conclusions; nevertheless, most cases occurred in urban areas or on the edge of towns, and mainly in San Jose province. All those who stated that they had used inhalants were single males with a primary education working in the industrial sector. Of those who sometimes experimented with inhalants, 86% had a low income.

Table 9Users of marijuana, by age at time of interview, 1995 (%)

Type of user	Age				
	12-20	21-29	30-28	39 and over	Total
Active	20	30	40	10	100
Inactive	---	57.1	14.3	28.6	100
Ex-users	6.2	26.8	45.4	21.6	100

Source: IAFA

28. The recent users of marijuana were mainly single males with a primary or secondary education (88.3 %).

29. In spite of that, among those from high-income families 62.2 % were active users of alcohol; the figures for middle-and low-income families were 44 % and 34.8 %, respectively. (p=0.0000).

30. The figure for alcohol consumption in the previous month was 4% lower than in 1990. It covers, in absolute terms, 580,423 people. Four out of every 10 occasional users were in this category. A quarter of them had consumed alcohol on 5 to 10 days during the month, and 9 % of them had done so on 12 to 30 days. The latter included 5 % who had consumed alcoholic drinks on 30 days of the month.

31. A further important aspect standing in contrast to the 1990 data is that most of those among the later contingent who occasionally consumed alcohol had experienced spells of substance abuse or bouts (periods of drunkenness lasting two or more days).

### 3. Alcohol consumption

Table 10

Active consumers of alcoholic drinks,  
by age group, 1995

<u>Age</u>	<u>%</u>
41-50	15.3
12-20	14.3
51-70	13.1
21-40	57.3

32. The national figure for those who have consumed alcohol at some time in their lives is lower than in Peru (83.5 %) and Colombia (90 %). The data from

studies carried out at the beginning of the 1990s in Bolivia and Paraguay, among others, reveal levels in excess of 70 %.

Table 11

Percentage distribution of persons who have drunk alcoholic beverages at some time in their lives, by age at which drink was first taken, 1990-95

Age groups	Year		Variation
	1990	1995	
Less than 12 years	9.8	6.1	-3.7
13-15 years	16.3	15.6	-0.7
16-18 years	19.7	20.7	1.0
19 and over	54.2	57.6	3.3
Total	100	100	

Source: IAFA

33. Although it might seem that the table reflects a promising situation, it should be emphasized that, in both periods, large sectors of the population (45.7 % in 1990 and 42.4 % in 1995) reported having had their first taste of alcohol before 18 years of age, i.e. at a time when the law prevented them from purchasing alcoholic drinks.

#### E. Economic structure

##### 1. Agriculture

34. Thirty-three per cent of the Costa Rican population works in agriculture, which contributes something less than 20 % of GNP. Productive land occupies 10 % of national territory, the rest being covered 41 % by pasture and 34 % by woodland. Cultivated areas fall into two main groups: the valleys and hollows given over to coffee and sugar cane, and the lowlands divided up into banana plantations.

##### 2. Industry

35. Attempts are being made to restructure small- and medium-scale industry, and to foster an entrepreneurial culture as an indispensable requirement for the overall modernization of the national manufacturing sector. Micro- and small enterprises have become an important source of jobs and income for many families. This sector represents approximately 90 % of all industry in terms of the total number of businesses, generates 50 % of jobs and brings in around 40 % of industrial value-added. Given their importance, small and medium enterprises have attracted measures intended to maintain their competitiveness.

36. The economic and political integration of customs regimes is being strengthened through the implementation of instruments designed to regulate

trade within Central America, examples being controls on the origin of goods, technical standards, emergency procedures, unfair trading measures and plant health regulations.

### 3. Construction industry

37. Policy is aimed at promoting private construction, in view of the limited scope that exists for action based on public investment, owing to the financial problems. Steps have been taken to establish the legal framework needed to attract private sector involvement, the most important being the approval of the Public Works Concessions Act of 27 November 1992 and of the Joint Electricity Generation Act of 31 April 1995.

38. In addition, in July 1995 a new Rent Act was approved which, by eliminating a number of legal obstacles and introducing a series of partial or total exemptions, provides greater incentive for the construction of rented accommodation; by December 1997, the area covered by apartment blocks was 30 % greater than the previous December. The two main factors behind the revival of the construction industry have been the efforts to maintain macro-economic stability, and the development of new mechanisms for the funding of public works and the construction of housing.

39. This branch of the economy is highly sensitive to decisions taken in the world's major financial centres. This situation, as in Latin America in general, also applies to Costa Rica's nascent industrial capacity. Under the difficult conditions resulting from the global economic crisis since 1974, Costa Rica is attempting resolutely to diversify its production and become self-sufficient in certain manufactured goods, and thereby to prevent the impoverishment of its people.

## II. DEMOGRAPHIC CHARACTERISTICS OF THE POPULATION

40. The national censuses carried out by the Statistics and Census Bureau have made it possible to apply standards to population growth in the second half of this century.

41. Living conditions have improved gradually, and, thanks to the application of medical techniques, the health of the population has improved greatly. Together with the notable increases in the numbers of women entering education and work, this has led to important changes in reproductive behaviour (use of family planning methods, greater age of mother on having first child, smaller size of nuclear family), with the result that the nation has passed rapidly through the stages of demographic transition.

42. The ever improving availability of potable water and health services and of information on food and nutrition, together with the government's mass vaccination campaigns, have led to a marked decrease in infant deaths.

43. In 1996, the birth rate declined to 23.3 per 1,000 inhabitants; the overall mortality rate was 4.1 per 1,000 inhabitants, and the infant mortality rate 11.8 per 1,000 inhabitants; in 1995, 94.6% of births took place in hospital (State of the Nation, 1996).

44. Under the accelerated urbanization, the country is experiencing different growth rates according to area (administrative centres and the rest), and the overall picture is changing from predominantly rural to predominantly urban.

#### A. Fertility rates

45. Although demographic changes have affected the whole country, types of reproductive behaviour differ according to area. For example, in San Jose the process of change is faster, owing to the existence of more directly and rapidly obtainable information on family planning and the adoption of changed behaviour patterns. The most notable effects of the widespread introduction and use of contraceptive methods have been a reduction in the size of the family group and changes in the age at which women have their first child.

#### B. Death rates

46. The infant mortality rate (TMI) is an excellent indicator of a country's health. In Costa Rica the rate has long been in decline, particularly during the 1970s, when an average improvement of around 13 per thousand per year was achieved thanks to notable advances in health conditions.

47. The TMI in Costa Rica improved from 200 to 70 deaths per 1,000 births between 1920 and 1960. At the beginning of the 1970s, the rate stood at just over 60 per 1,000 live births and, as a result of the process described above, by the end of that decade the rate was 20 deaths per 1,000 live births. Since then, the pace has slowed, and during the 1990s the rate has remained consistently at around 13 deaths per 1,000 live births.

48. With regard to the causes of death among children aged less than 1 year, the numbers of cases of infectious, parasitic and respiratory disease, which predominated in 1980, have all declined. Equally significant has been the reduction in geographical differences.

49. The ever-changing profile of the causes of infant mortality means that increased investment is continually needed in order to keep down the TMI; it is considered feasible that Costa Rica's infant mortality rate can be lowered further.

Table 12

#### Infant mortality rate, 1989-1996

	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
Birth rate	28.6	27.4	26.5	25.6	24.6	24.6	23.8	23.3
Infant deaths per 1,000 live births	13.9	15.3	13.6	13.7	13.7	13.0	13.3	11.8
Overall deaths per 1,000 inhabitants	3.9	3.8	3.8	3.9	3.9	4.1	4.2	4.1

50. The health sector is making efforts to minimize foreseeable causes. The Ministry of Health, through a strengthened National Committee for the Study of Infant Mortality (CONAMI) and nine regional subcommittees set up in 1996, analyzes and investigates infant deaths with a view to identifying situations where intervention is possible and appropriate measures can be taken.

51. Likewise, the Costa Rican Social Security Fund, through the National Breastfeeding Commission, has been promoting the benefits of breastfeeding for children's health, especially in the early months of life. To date, there are four hospitals which comply with the requirements of UNICEF's "Baby-friendly hospital initiative", located in San Ramon, Heredia, Nicoya and Grecia. Although this programme currently operates only in hospitals, it will be extended to other types of health care centre.

### C. Life expectancy

52. Health conditions and the health of individuals have improved over the past 40 years. This is evident from the increase in life expectancy, which stood at 75.2 years for the period 1990-95 and will reach 75.6 years for the period 1995-2000. Women's life expectancy is greater than men's, as shown in table 13.

Table 13

#### Life expectancy, by sex, 1990-95

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>
Men	72.9	72.9	72.9	72.9	72.9	74.0
Women	77.6	77.6	77.6	77.6	77.6	78.6

Source: Ministry of Planning and Economic Policy (MIDEPLAN)

### D. Population growth

53. In demographic terms, a population increases on the basis of births and the influx of immigrants, with the increase being partly offset by deaths and the losses attributable to emigration.

54. For 1990-95, the average numbers of recorded births and deaths were 80,600 and 12,500, resulting in a natural increase of some 68,100 persons per year. This population growth was also affected by a net migration balance which had been positive since the mid-1980s, owing to an influx of the nationals of neighbouring countries where there was war and economic displacement.

55. During the 1990s, the Costa Rican population exceeded three million, having reached one million only in 1955 and two million in 1976. According to the prevailing estimates and projections, the population of Costa Rica in 1996 was 3,442,917 inhabitants, comprising 1,740,117 men and 1,702,800 women.

56. Alongside this population growth, the death rate is one of the lowest in the world (4.0 per 1,000 inhabitants), owing to the youth of the population (33.6 % of people are younger than 15) and the great efforts the Costa Rican

health sector has devoted to achieving and maintaining effective and widespread services offering both preventive and curative medicine.

57. Education in Costa Rica can be divided into a formal system, comprising the levels covered by the Education Act (pre-school, primary and secondary), adult education (primary and secondary), special education and higher education, and an informal system that embraces a wide range of study options which do not call for formal education requirements and on the whole are not recognized by the State. The latter includes the National Institute of Apprenticeship (INA), a public institution whose task is to provide the workforce with educational opportunity in the form of vocational training.

58. With regard to migration, no reliable official statistics are available. However, it is estimated that some 300,000 Nicaraguans have entered the country in the past 12 years, many of them illegally. That total comfortably exceeds the number of Costa Ricans who settled abroad.

59. The birth rate has been the determining factor in the increase of Costa Rica's population. Also significant is the evidence of different patterns of reproductive behaviour among population subgroups.

60. The survey of reproductive health carried out by the Costa Rican Social Security Fund in 1993 found that the birth rate was 2.2 among women from higher social strata, and 4.2 among women from lower social strata. There was a high frequency of births outside marriage (46.6 %), mothers aged under 20 (18.4 %), single mothers (43.8 %), and births resulting from unplanned pregnancies (45.0%).

#### E. Structure of the family

61. The structure of families has changed considerably during the past two decades as a result of the transformation in demographic profile. Around the capital and in other urban areas, most are nuclear families based on a married couple, although that pattern alters the lower the position on the socio-economic scale. Family types also reflect sexual and reproductive behaviour patterns among the population.

62. These changes express trends that date back to the 1960s. By 1994, the numbers of unmarried couples and separated women were on the increase (State of the Nation Project, 1994). Although large families still exist in rural areas, Costa Rican society is moving towards a family model in which the number of children is limited and the mother has greater economic responsibility.

63. The increase in divorce and the reduction in marriages mean that in practice many families are regrouping under different arrangements. The marriage rate has been in slight but continuous decline. In 1990, 22,618 marriages were recorded, while in 1994 there were 20,073, equivalent to 29.5 per 100 inhabitants and 23.5 per 100 inhabitants respectively. By contrast, divorces increased from 14.5 per 100 inhabitants in 1990 to 16.7 per 100 in 1994 (State of the Nation Project, 1994).

64. Women have been taking on a greater share of responsibility in the area of social reproduction, partly for the reasons mentioned above, but also as a



result of the increase in births to single mothers. These rose from 30,119 in 1990 to 34,378 in 1994. The number of births for which the father was registered as unknown increased from 17,293 in 1990 to 19,993 in 1994. The following table illustrates this situation:

Table 14  
Births according to status of mother and father, 1990-94

Status	1990	%	1991	%	1992	%	1993	%	1994	%
Births	81,939	100	81,110	100	80,164	100	79 714	100	80,391	100
Single mother	30,119	36.76	31,220	38.49	31,336	39.09	31,992	40.13	34,378	42.76
Unknown father	17,293	21.10	18,154	22.38	18,316	22.85	18,941	23.76	19,993	24.87

Source: MIDEPLAN, 1995

#### F. Indigenous population

65. In Costa Rica this comprises approximately 40,000 people (1.2 % of the national population), distributed in 22 reservations and belonging to eight ethnic groups, each having its own characteristics, language and culture, namely Chorotegas, Malekus, Terrabas, Huetares, Brunkas, Bribris, Cabeceres and Guaymies.

66. The legislation governing the situation of the indigenous peoples of Costa Rica covers a wide variety of measures. Firstly, the Political Constitution provides, in article 33, that "All persons are equal before the law and no discrimination may be made against human dignity." To that may be added article 50, which provides that "The State shall work for the greatest well-being of all inhabitants of the country, by organizing and stimulating production and the most adequate distribution of wealth."

67. The legal instruments that establish the norms applicable to relations between the State and the indigenous communities are Act No. 5251 of 9 July 1973, which established the National Indigenous Affairs Commission (CONAI) as a State legal entity enjoying autonomy and belonging to the decentralized sector; The Indigenous Act, No. 6172 of 29 November 1977, with its amendments and Regulations, which defines the indigenous population, the indigenous reservations and their various legal jurisdictions (limits, ownership, administration, exploitation, etc.); and Legislative Decree No. 7316 of 3 November 1992 ratifying ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

68. Other instruments with a bearing on the indigenous population are the Act proclaiming the Day of Cultures, the Convention on Biological Diversity, the Mining Code, the Official List of Indian Reservations, and the Declaration of National Emergency Zones on Indigenous Reservations.

69. The standing committee on social affairs of the Legislative Assembly is currently examining the draft of the Law on the Autonomous Development of Indigenous Peoples, which recognizes the right of indigenous peoples to establish their own mechanisms for dealing with land tenure and matters such as health, education, housing and finance in harmony with their traditions of protecting natural resources, preserving the ecosystem and maintaining environmental integrity.

70. Indigenous education in Costa Rica is the responsibility of the Ministry of Public Education's Department of Indigenous Education, which covers the educational regions of Talamanca, Valle de la Estrella, Coto Brus, Buenos Aires, Perez Zeledon, Turrialba and Chirripo where 77 % of the indigenous population live. In the indigenous areas there are 128 primary schools and one college, at Amubri, Talamanca. Construction of the Boruca-Buenos Aires de Puntarenas College was planned for 1997 with the co-operation of the Spanish and Japanese Governments. In 1996 there were 206 indigenous teachers in Costa Rica. Of those, 108 were graduates and 98 non-graduates, with 83 being in post and 123 working as assistants.

71. Central to these achievements has been the restructuring of the national system for the recruitment, evaluation, selection and appointment of teachers working in indigenous schools and colleges. Other developments have been the establishment of an information system on the educational status of the 10 indigenous communities in Limon and Puntarenas provinces, the implementation of a pilot project on technical education at Quitirrisi de Mora and, in 1996, the incorporation of three elements of indigenous education, namely mother tongue, the indigenous environment and indigenous culture (art, craft, music), in the study plan being developed for indigenous communities, subject to approval by the Higher Council for Education. (Ministry for Public Education, Department of Indigenous Education, March 1997).

### III. COSTA RICAN POLITICAL SYSTEM

72. As the political system is very complex, it is best to begin by examining both the regime that adopted the repealed Constitution of 1871 and the draft Constitution, ultimately rejected, which was submitted to the Constituent Assembly by the Founding Committee of the II Republic.

#### A. Political regime

##### 1. In the Constitution of 1871

73. The political constitution of 1871 was in force from 7 December of that year until its repeal in early 1948. It shaped a constitutional period entirely different from those which had gone before, one characterized by its resistance to the vagaries of the political process. It was the document that established constitutional stability in Costa Rica (Mario Alberto Jimenez).

74. The reason for the permanence of the 1871 Constitution was the slow pace of national development. From the political viewpoint, the 1871 charter established a typical presidential regime. Under the 1871 Constitution, the President of the Republic combined the main functions of State. The Legislative

Assembly, as a consequence of the excessive concentration of powers in the President, played a secondary role. Effectively, the Congress-as the Legislative Assembly was called under that Constitution-became, except in certain superficial aspects, totally dependent on the Executive. Moreover, the municipalities lacked all independence and electoral functions were also exercised by the President.

75. In short, the 1871 Constitution conferred excessive power on the President, with the result that Costa Rican democracy was constantly dogged by compromise. This concentration of political power in the President of the Republic allowed an individualist conception of public duty to emerge - an exaggerated type of egoism.

2. In the draft submitted by the Governing Committee

76. The Founding Committee of the II Republic appointed a group of experts to produce a draft Constitution intended to serve as the basis for discussion by the Constituent Assembly in 1949. The text prepared by the drafting committee was rejected by the Conservative majority among the members, and so the Social Democrat deputies adopted the tactic of submitting the draft under separate motions, article by article. In this way they succeeded in modernizing the existing 1871 Constitution by introducing a number of new institutions such as the civil service and the Office of the Comptroller-General of the Republic, which were independent bodies. Subsequent debates gave rise to a third solution which was neither the traditional presidentialism of the 1871 political constitution nor the semi-parliamentary regime advocated in the draft proposed by the Founding Committee. The Constitution now in force is thus, like any political charter, the product of compromise between the dominant political forces at the time of its promulgation.

3. In the Constitution of 1949

77. The majority of Constituent Assembly members were not in favour of establishing a semi-parliamentary regime, considering it to be unsuited to political conditions in Costa Rica. Nonetheless, the members did recognize the need for the Legislative Power to take on new authority enabling it to break with its historical role under the constitution and achieve parity with the Executive Power. The final text of the current Constitution was thus the product of compromise among the main political players, namely the conservative majority embodied by the National Unity Party, which dominated the Constituent Assembly, and the rising social democratic movement, which advocated a more flexible system of government that took greater account of the basic rights of citizens.

78. The main characteristics of the presidential regime are:

(a) The President and deputies are elected by means of popular suffrage (arts. 105 and 130 of the Constitution);

(b) The President of the Republic is simultaneously head of State and the Executive Power (arts. 130 and 139);

(c) The appointment and removal of ministers is the exclusive and discretionary power of the President of the Republic (art. 139);

(d) The office of minister is incompatible with that of deputy (art. 111);

(e) The Assembly may not take votes of censure against the President of the Republic, and he may not dissolve the legislative body without notice (doctrine of arts. 148 and 149);

(f) Ministers are not politically responsible to the Legislative Assembly;

(g) The censure referred to in article 121, subsection 24, is not of a moral nature;

(h) Power to initiate State policy still rests with the President of the Republic, who has exclusive power to enact laws during special sessions (art. 118). He also prepares the budget and only he may submit amendments (art. 176 and seq);

(i) The officials who assist the President are designated as ministers, as in parliamentary systems (arts. 140 and 146 );

(j) The decrees, resolutions and orders of the Executive Power require the signatures of both the President and the appropriate minister (art. 146);

(k) A collegiate body exists, in imitation of the cabinet under parliamentary regimes, called the Council of Government, which has its own political powers (art. 147);

(l) Ministers are subject to interpellation on the part of the Legislative Assembly and to censure (art. 121, subparagraph 24). However, censure does not imply political responsibility on their part.

79. Costa Rica's political system is basically presidential, with certain parliamentary characteristics.

## B. Powers of the State

### 1. Concept of an authority

80. An authority is a person or group of persons exercising public power. It follows from this definition that the following elements are integral to the notion of an authority:

(a) The incumbent, namely the official through whom the authority's powers are exercised;

(b) The office (public power). What distinguishes the authority is the exercise of public power (legislative, administrative, jurisdictional, governmental).

Each authority assumes a share of power delimited by jurisdiction, which is the measure of the number of powers assigned to the authority.

81. State authorities may be found, from the organizational standpoint, under various classifications.

## 2. State power

82. It seems appropriate to indicate how a group of authorities create so-called State powers. The powers may be defined as a group of authorities combined in a major organizational unit of the State, and which perform characteristic, but not exclusive, duties. Clearly, in the modern world no single power can perform duties exclusively, without some functional interdependence occurring between all of them. Accordingly, the tendency nowadays, rather than refer to separation of powers, is to use the term "distinction and collaboration of powers" (Biscaretti).

83. The traditional branches of power are executive, legislative and judicial, a concept reflected in article 9 of the Constitution. The tripartite division corresponds to a material classification of functions which in turn relates to the characteristic activities of each power (law, administrative act, jurisdictional act).

84. Consequently, the Supreme Electoral Tribunal cannot be turned into a fourth power, since its so-called "electoral function" has no substantive existence of its own. What does exist is an "electoral activity" exercised basically through administrative acts, which are also legislative and jurisdictional in nature, and are in conformity with the three traditional functions exercised preferentially by each of the powers (group of authorities) that make up the State.

85. The basic characteristic of the State powers is that they are totally independent of the exercise of their functions, and are not therefore legally subordinate to any other State body. Their relationship with the other powers is based on collaboration and mutual respect for the functions that have been conferred legally on each of them.

86. It follows from the foregoing that the principle of separation of powers not only guarantees each power exclusive exercise of the jurisdiction granted to it by the Constitution, but also provides the basis on which each power is forbidden to interfere in the affairs of other powers.

## 3. Constitutional authorities

87. Under Costa Rican legislation, these are defined as authorities established by constitutional norms and enjoying mutual independence. In Costa Rica, therefore, this applies to the three powers (legislative, executive and judicial), the Supreme Electoral Tribunal and the Office of the Comptroller-General of the Republic.

88. As in the case of powers, constitutional authorities enjoy a large degree of functional autonomy, which allows them to exercise their respective powers completely independent of other State authorities. Therefore, there is no possibility of any subordination or hierarchy arising between them in their relations, and only interdependence is possible.

89. Finally, there are institutions of constitutional relevance which, although established by constitutional norms, have no autonomy as they are attached to another constitutional authority. The following specific examples may be found in the Constitution: (a) the higher board of education (art. 81), attached to the Executive Power; (b) the budget office of the Ministry of Finance (art. 177), attached to the Executive Power; (c) the national treasury (art. 185), attached to the Executive Power; (d) the national wages board (art. 57), attached to the Executive Power; and (e) the civil registry (art. 104), which is located in the administrative hierarchy of the Supreme Electoral Tribunal.

90. These institutions enjoy a degree of autonomy sufficient for proper fulfilment of their functions, and therefore belong technically under the heading of constitutional decentralization.

### C. Legislative power

91. This is the parliamentary institution in the Costa Rican system. It is unicameral, its functions being exercised by a Chamber known as the Legislative Assembly. The Assembly embodies one of the three powers of the Costa Rican State and has its origins in the people, for its members are chosen by means of elections held every four years on the first Sunday of February (arts. 105 and 107 of the Constitution).

92. The Assembly comprises 57 deputies, who work in a national capacity but are elected at provincial level. The deputies remain in post for four years and cannot be re-elected for a consecutive term; they must wait at least one term before standing for office again.

93. A deputy must be a citizen in the exercise of his rights, Costa Rican by birth, or by naturalization having resided in the country for ten years after naturalization, and must be at least twenty-one years of age. The term "citizen in the exercise of his rights" means that status must not have been suspended by a judgement on any of the grounds covered by article 91 of the Constitution.

#### (a) The status of deputies

94. A deputy is not liable for opinions expressed in the Assembly in the exercise of his duties, which includes work within the parliamentary precincts (plenary, committees) and outside. That privilege is granted solely and exclusively in order to protect the deputy in the exercise of his duties; for example, in the case of statements given to the press which might engender civil and criminal liability based on opinions expressed in the exercise of duty.

95. During sessions deputies cannot be arrested on civil grounds, except by authorization of the Assembly or if the deputy consents thereto. Since the elimination of bodily constraint from civil and commercial practice in 1989, the only way this could be achieved would be through the family courts on grounds of non-payment of alimony.

96. From the time he has been declared elected by the Supreme Electoral Tribunal and until he has completed his period of office, a deputy may not be deprived of his liberty on penal grounds, unless he has been previously

suspended by the Assembly. Such immunity does not apply, however, in a case of flagrante delicto or if the deputy waives it. Nevertheless, a deputy who has been taken in flagrante delicto will be freed if the Assembly so orders.

97. It should be emphasized that the deputy may only waive his immunity from detention, and not his exemption from penal liability, which in any case may be lifted by the Legislative Assembly through a qualified majority of two-thirds of its members.

98. A deputy who breaches any of these conditions loses his credentials. The same sanction applies if a deputy breaches these conditions in the exercise of ministerial duties. The Supreme Electoral Tribunal is responsible for declaring such a loss of credentials, being the constitutional institution that confers them.

(b) The legislative authorities and their functioning

99. The Assembly meets in San Jose. A two-thirds vote of its members is required to transfer its seat elsewhere or to suspend its sessions for a specified period (legislative recess).

100. The Assembly comprises the following organs: the plenary consisting of 57 members meeting together, the regular standing committees, which examine and advise on bills, and the special standing committees, which are appointed to specific tasks. Other parliamentary organs are the officers of the Assembly and its Presidency, and the meetings between the heads of factions and the President.

101. There are currently six regular standing committees: government and administration, economic affairs, budgetary matters, social affairs, legal affairs, agriculture and natural resources. Each comprises nine deputies, except the budget committee which has eleven members. The President plays no part in any of them.

102. There are four special standing committees: (a) honorary status, which examines proposals to have the Assembly declare an individual or institution a freeman or national hero; (b) books and documents, which decides on the Assembly's library acquisitions; (c) editing, which sees that formal motions concerning bills are included in debates and revises bills approved in initial debate prior to final editing; (d) international relations, which acts as official link between the Legislative Assembly, the Parliamentary Union, the Latin American Parliament and other parliaments world-wide.

103. All regular and special standing committees are formed by the President of the Assembly during the month in which the legislative period commences, for a period of one year.

104. There are also special committees which carry out tasks entrusted to them by the plenary in accordance with the provisions of article 121, subsection 23, of the Constitution. They consist of three deputies, none of whom may be a member of more than one special committee simultaneously.

105. Under Costa Rican legislation there are also mixed committees composed of deputies and members of the public. The latter are generally experts on matters relating to a legislative proposal who advise the deputies but may not vote during the Assembly's sessions.

106. The officers of the Assembly consist of a President and two secretaries. A vice President and two pro-secretaries are elected as deputies. They are elected annually at the opening of each legislative period on 1 May, and may be re-elected indefinitely.

107. Finally, under the Assembly's regulations an organ has been created which takes the form of meetings between the heads of factions and the officers of the Assembly. This body is primarily political in nature, and provides a means of communication between the political agencies in parliament (political parties) and the Assembly's decision-making organs (officers and President).

108. The Legislative Assembly cannot sit without quorum. Meetings are public except when, for very special reasons in the general interest, the plenary decides to meet in private on the basis of approval by not less than two-thirds of deputies present.

109. Each legislative period is divided into four. One legislative period includes all regular and special sessions held between 1 May and 30 April following.

110. Only the Executive Power may convoke special sessions. At such meetings no matters other than those stated in the decree of convocation may be taken up, except when the Assembly is obliged to appoint officials, or finds itself having to effect legal amendments in order to decide on matters submitted for its consideration.

111. Decisions of the Assembly are made by simple majority of the members present, except for those cases in which the Constitution requires a larger majority. For example, the suspension of guarantees and the creation of autonomous institutions require two-thirds of the entire membership of the Assembly, as stated in the Constitution.

(c) Functions of the legislative authority

112. The functions of the legislative authority in Costa Rica fall into five main categories: (a) legislation; (b) political control; (c) jurisdiction; (d) political direction; and (e) non-legislative activities of the Assembly, which cover a wide variety of activities. Historically, these comprise the duties par excellence of parliaments. They are strictly regulatory in nature, consisting of the approval of legal provisions for general application which are subordinate to the Constitution and international treaties.

113. Through its legislative function, Parliament produces written laws which initiate legislation, thereby activating or developing constitutional provisions and principles.

114. Under article 121, subsection 1, of the Constitution the Legislative Assembly enacts, amends, repeals and gives authentic interpretation to the laws,



except on electoral matters, whose authentic interpretation is the concern of the Supreme Electoral Tribunal. Other subsections of the same article specify the legislative powers of Costa Rica's parliamentary authority. Examples are subsection 11 (fixing the regular and special budgets of the Republic); subsection 13 (imposing national taxes and authorizing those of the municipalities); subsection 14 (ordering the sale or application to public use of property belonging to the nation); subsection 15 (approving or disapproving loans or similar agreements affecting the public credit, concluded by the executive branch); subsection 17 (fixing the content of the unit of currency and enacting laws on coinage, credit, weights and measures); subsection 18 (promoting the progress of the arts and sciences); subsection 19 (creating establishments for teaching); and subsection 20 (creating courts of justice).

115. The legal act that expresses the legislative function is the law. Such an act is the final product of a process to which the Assembly and the Executive Power contribute jointly. This is precisely one of those points of contact between the main holders of power at which the will of the State is expressed.

116. There are four stages in the legislative process. The introductory stage involves the submission of bills to the Legislative Assembly. During regular sessions, legislation may be initiated by individual deputies or by the Executive Power. During special sessions, the initiation of legislation is the prerogative of the Executive Power. The discussion stage comprises the bill's passage through a regular standing committee and a plenary debate. At the committee phase, both deputies who are members of the committee and other Assembly members may submit formal and substantive motions to amend the draft text under discussion. When the draft has been discussed and approved by the committee, it is passed on to the plenary together with the opinions expressed, whether positive or negative. The bill is then included in the plenary's agenda and subjected to three debates, each on a different day. Then comes the approval stage; bills must be approved at the third debate, by the majority required under the Constitution in each case. A legislative decree is then sent to the Executive Power for sanction. Finally comes the formulation stage, when the law is promulgated and published. In Costa Rica, however, promulgation and publication merge into one; executive sanction or, where appropriate, reconfirmation, establishes the law's validity, whereas publication brings it into effect. As a result, promulgation is considered an integral part of publication, for on its own it has no legal force in Costa Rican legislation, as is the case in other countries.

117. In modern times, the main function of Parliament has been shifting away from regulatory activities towards political or parliamentary control. Through this function, the Assembly checks that the other public powers, especially the Executive, act not only within the framework of the Constitution and the law, but also in the national interest.

118. Investigative committees are the most important and frequently used instrument in matters concerning political control. In accordance with article 121, subsection 23, of the Constitution, investigative committees may consider any matter entrusted to them by the Assembly and must submit the corresponding report within the required time limit. The committees have free access to all official agencies in conducting their investigations and may request any data

deemed necessary. They may receive any kind of evidence and call before them any person for purposes of interrogation.

119. The scope of these committees' investigations is limited by the powers reserved constitutionally for other fundamental authorities. For example, an investigative committee could not interfere with trials or matters pending before the Office of the Comptroller-General or the Supreme Electoral Tribunal. Another important limitation on their work is that they may not investigate matters declared to be State secrets or request private documents, which are actions prohibited by articles 24 and 30 of the Constitution. Their reports have no legal force, and are essentially recommendations of a political nature.

120. With regard to its jurisdictional function, in accordance with article 121, subsections 9 and 10, of the Constitution, the Assembly may lift the exemption from criminal proceedings enjoyed by members of the supreme powers, and order their suspension if they have been tried or found guilty. This is exclusively a jurisdictional function, for in cases of criminal accusation against members of the supreme powers the respective trial cannot proceed unless the Assembly has determined beforehand, by a two-thirds majority of all its members, that there are grounds for legal action.

(d) Participation by the Assembly in states of emergency

121. The Constitution provides for three kinds of state of emergency: suspension of constitutional rights and guarantees; authorization to declare a state of national defence and to make peace; and the right to control sections of the budget during periods of legislative recess.

122. The suspension of constitutional rights and guarantees may only be temporary and must only be decreed for reasons of urgent necessity. Such a suspension requires the approval of not less than two-thirds of all members of the Assembly and may be extended up to a maximum of thirty days. In addition, only the rights and guarantees specifically listed in article 121, subsection 7, of the Constitution may be suspended. The second scenario involves the exercise of a characteristically political power which may be defined as an activity established under the Constitution that is exercised by the Legislative Assembly or the Executive Power during an administrative recess, and which concerns the State and the community as a single entity. It cannot be challenged by contentious-administrative means, as it does not cause direct or immediate harm to the subjective rights or legitimate interests of private individuals.

123. In the third scenario, the power is granted to control sections of the budget during periods when the legislative body is in recess. The executive right in question entails automatic convocation of special sessions of the Assembly, which must approve or not the budgetary change.

124. In this way, the Assembly exercises political control over the Executive Power's handling of the indeterminate legal concepts "urgent or unforeseen necessity" and "war, internal upheaval or public disaster".

#### D. Executive Power

125. This body is constitutional, independent, political, supreme, representative and original, as clearly and consistently implied by articles 9 and 130 of the Constitution.

126. The Executive Power is a constitutional authority that exercises the political and administrative function of State. It is independent of the other State powers, and operates through a system of balances and counterbalances that preclude any hierarchical dependence among them.

127. The Costa Rican Executive is the political driving force in State activity, and thus constitutes in practice the basic arm of government. At the political level, the Executive takes the basic decisions of State, and in the legal sphere it is supreme among the other administrative bodies. Accordingly, the General Public Administration Act grants it authority to co-ordinate and direct all governmental and administrative tasks, comprising both central and decentralized areas of government.

##### 1. Organization

128. The Executive is a complex entity comprising the following basic authorities: (a) the Presidency of the Republic; (b) ministers; (c) the Council of Government; (d) the Executive Power in the strict sense.

129. To be President or vice-President of the Republic a person must be a Costa Rican by birth and a citizen in the exercise of his rights, a layman, and over thirty years of age. The following may not be elected President or vice-President: (a) anyone who has served as President during any period, or a vice-president or person replacing him who has served during the major portion of a constitutional term; (b) a vice-president who has held such status during the twelve months preceding the election; (c) any descendant relative by consanguinity, or brother, of the person occupying the Presidency of the Republic at the time of the election; (d) anyone who has been a cabinet minister during the twelve months prior to the date of the election; (e) the titular magistrates of the Supreme Court of Justice, the alternate magistrates of the Supreme Electoral Tribunal, the Director of the Civil Register, directors or managers of the autonomous institutions, the Comptroller General and Assistant Comptroller General of the Republic.

130. The election for President and vice-President is held on the first Sunday in February of the year in which these officials are to be elected. The presidential term is four years. Two vice-Presidents are elected at the same time as the President; they replace him during his complete absence, in the order of their nomination.

131. Under article 139 of the Political Constitution, the President carries out an exclusive and personal political mandate. He is charged with co-ordinating the efforts of the nation as a whole. His exclusive powers, which are independent of other constitutional authorities, relate to three specific functions: discretion to appoint and remove cabinet ministers, and representing the nation officially. In addition, he must fulfil the two specific duties of presenting to the Legislative Assembly a report on his work at the start of each

annual legislative period, and requesting permission when he wishes to leave the country, except to go to any of the countries of Central America or to Panama.

132. The above-mentioned powers and duties, which are of a purely political nature, establish an authentic head of State who is granted the power of regulator over other holders of public power; this is reinforced by the terms of article 26 (c) and (d) of the General Public Administration Act, which require the President to settle disputes between decentralized bodies and central government and to resolve problems of jurisdiction arising among ministries.

## 2. Powers of ministers

133. Under article 130 of the Political Constitution, cabinet ministers are subordinate collaborators of the President; all instruments attributed to them by the Constitution must be signed jointly with the President in order to be valid.

134. According to articles 130, 139, 146 and 121, subsection 20, of the Constitution, ministries must be established through the law, which organizes them and regulates their functioning, while it is exclusively the President of the Republic who appoints ministers and determines their number.

135. Article 28 of the General Public Administration Act spells out the powers of ministers, without prejudice to the specific powers conferred on them by the constitutional law relating to their respective ministries.

## 3. Deputy Ministers

136. This post has its origins in legislative practice, and came into existence under the General Public Administration Act of 1979.

137. The powers of the deputy Minister, which are laid down in article 48 of the General Public Administration Act, basically involve exercising the functions that his place just below the top of the hierarchy requires: to direct and co-ordinate the ministry's internal and external activities, without prejudice to the minister's powers; to act as the focal point of communication in the ministry, in respect of both internal and external matters; to conduct the research and assemble the documentation necessary to the ministry's smooth functioning; and to delegate, take on, substitute or replace duties within the scope of the General Public Administration Act.

138. In practice, deputy Ministers share the political and administrative direction of the ministry, as the workload is such that the Minister could not possibly deal with every aspect of his responsibilities.

## 4. Council of Government

139. This comprises the President of the Republic, who acts as chairman, and cabinet ministers, either with or without portfolio. The latter may contribute, but have no vote.

140. Its jurisdiction is political in nature since, to some extent, its situation is that of a body more typically found in parliamentary systems which

has been introduced into a presidential regime, as has happened with the cabinet. In addition to these constitutional powers, article 29 of the General Public Administration Act grants the Council additional jurisdiction in various matters.

141. In principle, as indicated in the section on the Legislative Assembly, the Executive Power is an authentic co-legislator. In that capacity it may exercise the initiative to enact law, during regular and special sessions. The Executive Power has exclusive and discretionary authority to convoke special sessions.

142. Legislative sanction completes the process of validating a law, while publication brings it into effect.

143. Another important aspect is the right to veto bills approved by the Assembly, which is granted under the terms of article 128 of the Constitution and constitutes, inter alia, an authentic political control over the activity of the legislative branch.

144. All these so-called governmental acts are exempt from contentious-administrative jurisdiction, as they do not injure subjective rights or legitimate interests directly, and therefore no legitimate subjects exist in respect of which action may be taken by such means.

145. With regard to political direction, the Executive Power's duties encompass the planning, control and co-ordination of policy and administration.

146. The Planning Act provides that planning is binding on the public sector, whereas it is merely indicative in respect of the private sector. The power of direction, which is expressed legally in the possibility to issue directives to both central and decentralized branches of government, is granted under article 100 of the General Public Administration Act. The legal instrument of direction is the directive, which is defined as "an administrative act which is binding in its scope, particularly in respect of the form and methods of the directed conduct, and issued in a climate of trust which assumes a wide margin of discretion in the institution or body being directed" (Ortiz, Eduardo).

147. Article 140, subsection 12, of the Constitution gives the Executive Power exclusive authority to direct international relations.

148. Liability applies only as long as the President and ministers meet in the exercise of their duty and for up to one year after their duties cease. Where crimes are concerned, however, naturally the length of the prescribed period is conditioned by the punishable act committed. The members of the Executive Power may incur civil, penal or administrative liability.

#### E. Judicial Power

149. The Judicial Power has its legal basis in articles 9 and 152 of the Constitution. Article 9 states:

"The government of the Republic of Costa Rica is popular, representative, alternative and responsible. It is exercised by three distinct and independent branches: legislative, executive and judicial.

None of these branches may delegate the exercise of their proper functions. A Supreme Electoral Tribunal, with the rank and independence of the branches of government, has the exclusive and independent responsibility for the organization, direction and supervision of acts relating to suffrage, as well as for any other functions assigned by this Constitution and the laws."

Article 152 states: "The judicial power is exercised by the Supreme Court of Justice and by other courts established by law."

150. The principle of separation of powers is embodied in the Political Constitution. That independence is purely organizational, as in practice an interrelationship exists between the different branches of the Republic, with each retaining its own functions, which may not be delegated.

151. The independence of the Judicial Power is secure with respect to the Executive Power. Its relationship with the latter is collaborative, since legal decisions must be implemented, as necessary, by the police forces that answer to the Executive. Moreover, the courts are obliged to apply administrative acts issued by the Executive Power, in that they may not declare them invalid.

152. On the other hand, the Executive Power is subject to the courts, since its acts may be referred to them through contentious-administrative action on grounds of illegality, and also for reasons of unconstitutionality.

153. With regard to the Legislative Assembly, article 154 of the Constitution states that the courts, and thus judges, are subject only to the law, such that no other declaration by the legislative branch may be binding on judges. The legislative branch does place indirect restrictions on the Judicial Power, in the sense that it enjoys exclusive competence to approve the latter's budget, and to appoint magistrates.

154. The law must determine the jurisdiction, number and duration of the courts, their powers, the principles on which they base their acts, and the manner in which they may be held responsible.

155. With regard to bills concerning the organization and functioning of the Judicial Power, the Assembly must confer with the Supreme Court of Justice. A qualified majority of two-thirds of its entire membership is required in order to depart from the views of the Court.

156. The main limitation placed by the Assembly on the Judicial Power consists in constitutional control over the laws, allowing for the fact that the Constitutional Chamber has the power to declare a law invalid on grounds of formal or substantial defect.

157. By contrast, the Assembly may not change a judgement, as once a decision has become judgement at law, when it is not susceptible to any appeal within its jurisdiction, the Assembly is restrained from passing a law amending the judgement.

(a) Composition of the Judicial Power

158. The Judicial Power is exercised by the Supreme Court of Justice and by other courts established by law. The Supreme Court of Justice is the highest court of the judicial branch, and therefore of its administrative hierarchy.

159. The Supreme Court of Justice currently comprises four courts: the First Chamber tries civil, commercial and contentious-administrative cases, the Second Chamber tries cases relating to family law, labour law and residuary decisions (inheritance and bankruptcy); the Constitutional Chamber is concerned with constitutional jurisdiction.

160. The magistrates of the first three Chambers are elected by an absolute majority of votes, whereas the magistrates of the Constitutional Chamber are elected by a qualified majority of two-thirds of the total membership of the Assembly.

161. Each of the first three Chambers comprises five magistrates, and the Constitutional Chamber has seven. A president of the Supreme Court must be Costa Rican by birth.

(b) Organization and functioning of the Courts of Justice

162. In order to safeguard the independent organization and functioning of the courts of justice, the Constitution and the laws lay down a number of principles for them to follow.

163. The first of these is the guarantee of a natural judge, under article 35 of the Constitution, which provides that the name of the judge must be known, and that all cases and all persons may be tried only by judges appointed in accordance with the Constitution.

164. Articles 121, subsection 20, and 152 of the Constitution grant the Legislative Power exclusive authority to create courts of justice; the Executive Power is prevented constitutionally from creating courts or determining their competence.

165. Under the principle of judges' impartiality, the judge must remain independent of other courts. Moreover, the judge must be placed in a position of effective impartiality with regard to the interests of the parties in dispute. Article 41 of the Constitution requires that justice must be prompt, thorough, and "in strict accordance with the laws".

166. In the same vein, article 154 of the Constitution states that the Judicial Power is subject only to the Constitution and the law. This guarantee is strengthened by article 155, according to which "No court may take cognizance of cases pending in another court." Each court has proper and exclusive competence to resolve matters submitted to its jurisdiction, without interference from other courts and judicial bodies. When judges breach this principle of impartiality, they pervert the course of justice and may be liable to penal or civil action.

167. Article 153 of the Constitution grants the Judicial Power the monopoly in solving all disputes that arise on different matters, without prejudice to the existence of administrative courts within the orbit of both the Executive Power and the Judicial Power, whose decisions do not constitute actual judgement at law, and may always be contested in the courts of justice. The only area outside the jurisdiction of the Judicial Power is electoral matters, on which decisions are taken exclusively by the Supreme Electoral Tribunal, in accordance with article 103 of the Constitution.

168. The most important function of the Judicial Power is to defend the Constitution and protect basic rights, and is the responsibility of the constitutional court.

(c) Constitutional jurisdiction

169. Constitutional supremacy implies three important legal consequences: (a) the legitimacy of the Constitution is uncontrollable, since there is no higher power than its content; (b) the provisions in the text of the Constitution are supreme, and prevail over all other types of provision, previous and subsequent; and (c) laws or acts which contradict the Constitution, or which are issued in contravention of its precepts, are invalid.

170. Constitutional guarantees are technical-legal devices that protect constitutional provisions, when they are breached or if there is a threat of infringement, by restoring the injured legal precept. They comprise all the procedural remedies that make up the established "constitutional jurisdiction of freedom".

171. The State authorities responsible for constitutional justice have the most important task in the modern State: to ensure that the constitutional precepts, and ultimately constitutional supremacy, exist as a daily reality within the framework of the legal system in which, by express mandate, the underlying community (civil society) has established them as its supreme guardians.

172. The reform of articles 10 and 48 of the Constitution in 1989 and the promulgation of the Constitutional Jurisdiction Act have produced a considerable change in the way constitutional jurisdiction is viewed and regulated nationwide. It is incumbent upon the Constitutional Chamber to decide on its own jurisdiction, which involves ensuring that matters relating to constitutional jurisdiction are not decided by other courts unqualified to deal with them, and that the jurisprudence maintains the consistency required in order to safeguard the principle of prompt recourse.

173. The Constitutional Jurisdiction Act also confirms the principle of prompt official trial, since the Chamber must act officially and with all speed so as to ensure that inertia by the parties cannot be invoked as a means of delaying trial.

174. There is no appeal against the decisions of the Constitutional Chamber—without prejudice, naturally, to a petition for liability. The judgements of the Chamber may only be clarified and additions made within three days of their announcement, if at the request of a party, and at any time officially.



175. The Chamber is subject only to the Constitution and to the law, and its jurisprudence and precedents are binding erga omnes, except on itself.

176. According to its article 1, the objective of the Constitutional Jurisdiction Act is "to regulate the constitutional court, whose purpose is to guarantee the supremacy of the rules and principles of the Constitution and those of the international or community law in force in the Republic, the uniform interpretation and application thereof, and the fundamental rights and freedoms embodied in the Constitution and in the international human rights instruments in force in Costa Rica". Article 2 states clearly that the following are the specific concern of the Constitutional Chamber: (a) to guarantee, by means of habeas corpus and amparo, the rights and freedoms enshrined in the Political Constitution and the human rights recognized in international law which are in force in Costa Rica; (b) to monitor the constitutionality of all laws and of acts subject to public law, and the conformity of the internal order with international or community law, by means of actions of unconstitutionality...; and (c) to resolve disputes concerning constitutional jurisdiction between the State powers, including the Supreme Electoral Tribunal, and disputes concerning constitutional jurisdiction between these powers and the Office of the Comptroller-General, municipalities, decentralized bodies and other persons of public law.

#### IV. GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS

##### A. Basic rights

177. The Political Constitution establishes the basic rights of all persons, without distinction.

178. The right to life is guaranteed, and the death penalty does not exist in the Costa Rican legal system; no-one may be subjected to forced disappearance, torture, or to cruel, inhuman or degrading treatment or punishment. All people are born free and are equal before the law, and shall thus receive equal treatment from the authorities and enjoy the same rights, freedoms and opportunities, without discrimination on grounds of sex, race, national or family origin, language, religion or political opinion. They shall have the right to personal and family intimacy, to recognition of their legal person, and to inviolability of their correspondence. Freedom of worship, free expression and free circulation are guaranteed. Every person has the right to petition the authorities, out of general or personal interest, and to obtain prompt resolution. Work is a right and a social obligation which enjoys State protection. Freedom of education and training, and due process, are guaranteed. No-one may be disturbed in his person or his family, or reduced to prison, or detained, or have his home searched, without a written order issued by a competent legal authority. There is no imprisonment for debts, except those arising through alimony. The right to bring proceedings of habeas corpus and amparo is established. The rights of asylum and political participation are also recognized, inter alia.

179. The family, as the natural and basic element of society, has the right to special protection from the State. Mothers, children, the elderly and the sick are also entitled to this protection; all enjoy the same rights, equalities and

opportunities; the special rights of children, adolescents, senior citizens and the handicapped are recognized. Social security is guaranteed as a State obligation. Any child aged less than one year has the right to free care in all State-supported health facilities; the rights to work and to enjoy labour protection are guaranteed, as is the right to strike and to collective bargaining. Private property, the rights to intellectual property and use of State property, and authors' rights are guaranteed. Agriculture enjoys special protection from the State. The State, society and the family are responsible for education; education is compulsory and free. The right to free expression and the right of access to public documents are guaranteed.

#### B. Communal and environmental rights

180. The law regulates the quality control of goods and services made available to the public. All persons have the right to enjoy a healthy environment, and the State co-operates with other countries in protecting ecosystems.

#### C. The Judicial Power

##### 1. Structure and functioning

181. The Judicial Power, the supreme power of the Republic, must ensure that the laws are respected and that justice is administered. Articles 9 and 152 of the Political Constitution define its legal basis. In addition, the Judicial Power is governed by the legal directives set forth in the Organization of Justice Act:

Article 1 states: "In addition to the functions indicated in the Constitution, the judicial power shall hear civil, penal, juvenile penal, commercial, labour, contentious-administrative and civil financial, constitutional, family and agrarian cases, as well as any others which the law may provide; shall render final decisions thereon and execute the judgements pronounced, with the assistance of the public force if necessary."

182. The Judicial Power is subject only to the Political Constitution and the law, and the decisions rendered by it on matters within its competence impose no responsibilities other than those specifically set forth in legislation (art. 2).

183. The Judicial Power divides structurally into three different areas:

(a) Jurisdiction, which comprises the departments responsible for administering justice, namely the Supreme Court of Justice, higher appeal courts, appeal courts, collegiate courts, courts of first instance and penal courts, lower courts and tribunals, petty sessions, and courts concerned with summary proceedings and alimony. At their head is the Supreme Court of Justice, which is the highest court in the country. All courts and tribunals are subordinate to it. Its organizational structure reflects three factors: the nature of the matters to be decided, the territory in which events occur, and their level of importance (amount of money involved), and these determine which department handles the case. Territorial jurisdiction and level of importance are both determined by the Supreme Court of Justice. The Supreme Court of

Justice, or Full Court, comprises 22 magistrates distributed as follows: five in each of the three courts of appeal and seven in the constitutional court, appointed by the Legislative Assembly for eight year terms;

(b) Auxiliary justice, which includes those bodies that collaborate in the administration of justice, namely legal research institutes, government ministries, ombudsmen, law schools, the centre for electronic information on jurisprudence, archives and record offices;

(c) Administration, which supports the normal functioning of the institution and comprises the Higher Council, charged with administering the institution's resources, supported by various departments under an executive board: personnel, supplies, general services, and finance and accounts.

## 2. Supreme Court of Justice

### (a) The Chambers of the Supreme Court

184. These courts hear the following cases:

(a) Appeals and reviews relating to contentious-administrative, civil, commercial and agricultural matters involving sums greater than 750, 000 colones;

(b) Proceedings concerning sentences passed by foreign courts which are to be completed in accordance with the treaties and laws in force;

(c) Questions of jurisdiction arising between higher civil, agrarian and contentious-administrative courts.

185. Cases are distributed among the courts mainly on the basis of subject matter. If there is no law that can be applied to regulate work distribution or court jurisdiction, the Supreme Court decides on the matter and publishes its verdict in the Legal Bulletin.

186. The First Chamber hears appeals and reviews, conducted at simple, short trials as required by law, on civil, commercial and contentious-administrative matters, with the exception of proceedings involving family law and residuary judgements; cases concerning the completion of sentences passed by foreign courts in accordance with the treaties and laws in force and others of exequatur; cases involving jurisdiction among the higher civil courts, or that arise between them and other courts when the latter have anticipated cognizance of a matter; cases concerning jurisdiction among civil courts which pertain to the jurisdiction of the various higher courts, and involving ordinary civil or commercial trials, with the exception of residuary judgements and matters relating to the family and labour law; cases of third instance involving agrarian jurisdiction, when the action concerns compliance with the law; disputes involving any type of court and higher contentious-administrative courts; jurisdictional disputes that arise in connection with the judicial and administrative authorities, and other matters that the law may determine whose nature makes them unsuitable for the other chambers of the Supreme Court.

187. The Second Chamber hears:

(a) Appeals and reviews, conducted at simple, short trials as required by law, which relate to family or inheritance law and residuary judgements or involve execution of sentence following an action taken outside the cognizance of the First Chamber. The amount involved must exceed 750,000 colones;

(b) Cases of third instance relating to labour law, when the action concerns compliance with the law;

(c) Civil liability actions brought against judges belonging to collegiate courts of any kind, except lower labour tribunals;

(d) Issues of jurisdiction arising in matters relating to labour law, when other courts in this field are called upon to resolve them. Jurisdiction among civil judges belonging to divisions of the collegiate courts located in different territories, on any matter which the First Chamber is not required to resolve.

188. The Third Chamber hears: (a) appeals on criminal matters which do not fall within the competence of the Criminal Court of Appeal, in respect of crimes carrying a penalty of more than five years imprisonment; (b) Criminal cases brought against members of the supreme powers and other comparable officials; (c) Other criminal matters, such as the laws may require.

189. The main task of the Constitutional Chamber is to protect the fundamental rights established by the Political Constitution and the other international legal instruments ratified by Costa Rica, and to ensure their full implementation.

190. It hears proceedings involving habeas corpus and amparo, actions of unconstitutionality, constitutional issues and jurisdictional disputes arising between the powers of State, including the Supreme Electoral Tribunal, and disputes of constitutional jurisdiction between them and the Office of the Comptroller-General, municipalities, decentralized bodies and other persons of public law.

191. Any person claiming rights may, alone or through another person, have recourse to the Constitutional Chamber at any time, through proceedings of habeas corpus and amparo. Only in cases of unconstitutionality are the services of a lawyer required. Legal opinions may only be formulated by the authorities and legislative opinions by deputies.

(b) Remedy of amparo

192. Proceedings of amparo provide means of seeking redress from the agency of constitutional jurisdiction with regard to injury or threat of injury to basic rights and constitutional guarantees, except those relating to personal liberty and integrity. Article 29 of the Constitutional Jurisdiction Act (CJA) states: "The remedy of amparo guarantees the fundamental rights and freedoms with which the Act is concerned, except for those protected by habeas corpus. It may be brought against any provision, agreement or decision and, in general terms, against any action, omission or simple material act not based on a valid

administrative function of public servants or public bodies, which has violated, is violating or threatens to violate any one of those rights. Proceedings of amparo may be brought not only against arbitrary acts but also against acts and omissions based on wrongly interpreted or improperly applied rules."

193. Proceedings of amparo may also be brought against "...acts or omissions by subjects of private law when they are acting or should be acting in the exercise of public functions or powers or when they find themselves, de jure or de facto, in a position of power against which the ordinary legal remedies are insufficient or too slow to guarantee the fundamental rights and freedoms..." (art. 57, CJA).

194. According to article 38 of the LJC, "The proceedings of amparo shall state, in the clearest terms, the act or omission giving rise to their invocation, the right which is considered violated or under threat, the name of the public servant or public body responsible for the threat or injury, and proof of the charge. It is not essential to cite the constitutional rule infringed, provided that the injured right is clearly identified, except when an international instrument is being invoked. The proceedings are not subject to other formalities and shall not require authentication. They may be introduced through a petition, telegram or other means of written communication. If telegraphic means are used, they shall be exempt from charges."

195. Any person may bring proceedings of amparo (art. 35, CJA), and an amparo action may be brought at any time as long as the violation, threat, disruption or restriction persists, and for two months after its direct effects on the injured party have totally ceased (art. 35, CJA).

196. Likewise, article 1 of the same Act states:

"The present Act is designed to regulate the constitutional court, whose purpose is to guarantee the supremacy of the rules and principles of the Constitution and those of the international or community law in force in the Republic, the uniform interpretation and application thereof, and the fundamental rights and freedoms embodied in the Constitution and in the international human rights instruments in force in Costa Rica."

In practice, amparo in Costa Rica is a direct action that does not require any prior case, either legal or administrative.

197. The CJA allows a period of two months in which to bring the action, taken from the time when the violation occurred and the injured party became aware of it, or from the time the violation ceased, provided the effects persist and it is not a question of "purely property rights" (art. 35, CJA).

198. Article 27 of the Constitution establishes the right or freedom to petition "any public official or official body and the right to receive prompt redress." Article 32 is confined simply to defining "prompt redress": it must be given within the legal time limit; failing that, within ten working days.

199. Amparo offers a defence not only of simple petitions (applications without legal time limit). It also protects any petition for which redress is not made in good time, since neither the Administration nor any public official has the

right to silence, which is a violation of the principle of administrative justice.

200. It should be emphasized that amparo is an extraordinary and optional remedy. Practically all amparo cases can be reviewed by normal legal means, hence there is nothing to prevent simultaneous recourse to both channels. Also, establishment of amparo does not suspend legal principle or alter the time limit regarding action being taken under ordinary law.

201. The Constitutional Chamber has ruled that contentious-administrative courts are competent to judge acts that violate fundamental rights and freedoms (Resolution 3035-96), a protection which may be offered both by ordinary legal means and by injunction, against "simple material actions" (art. 357 of the General Public Administration Act).

202. Naturally, once a favourable ruling on amparo has been pronounced, it prevails over ordinary jurisdiction.

(c) Sentence

203. A verdict in favour of the applicant restores or guarantees enjoyment of the violated right (art. 49, CJA). It produces judgement at law. The verdict in favour "entails in principle" liability for damages and costs, whose amount is paid off through enforcement proceedings in an ordinary court. It should be noted that the verdict is given without full trial and without the possibility of appeal (art. 51, CJA).

204. If the Constitutional Chamber considers that the offending official has committed serious fraud or negligence, it shall decide sentence jointly with the public body (art. 51, CJA), provided it has been possible to grant him a personal hearing. Failure to sentence in person does not prejudice whether there is actually liability under articles 203 et seq. of the General Public Administration Act. A sentence of damages may thus be given even when a claim has been settled out of court, after the official has been notified of appeal (art. 52, CJA).

205. A verdict against the applicant does not produce material judgement at law (art. 52, CJA). It cannot produce a sentence of damages based on the stay of effects mentioned above; it may only lead to a sentence of costs if the recourse is considered "hasty".

206. The CJA does not define a time limit for pronouncing sentence in amparo cases. However, the general principles relating to official conduct and promptness apply (art. 8), except that these cases are to be handled "on a priority basis", with priority over habeas corpus cases (art. 39).

207. Only additions to or clarifications of a decision are possible (art. 121, CJA). Even though the rule is very clear, the Chamber may admit "appeals" intended to correct flagrant errors of fact or of law, in truly exceptional cases.

208. The Chamber executes its own decisions, except in the above-mentioned cases where pecuniary responsibilities are concerned (art. 56).

(d) Habeas corpus

209. Given the nature of the rights it protects, habeas corpus is now the most important procedural institution under the Constitution, in the sense that we cannot conceive of a "Constitutional State of Law" which does not bring together the procedural resources sufficient to ensure its flexible and effective implementation.

210. This remedy is intended to protect the fundamental rights of greatest importance, namely personal freedom and movement. To deprive a person of either of these would be to prevent him exercising the other rights to which he is entitled. The reason for the existence of habeas corpus is thus to prevent and suppress any illegal infringement of a person's freedom, regardless of its origin.

211. It has thus come to be regarded as the bedrock of procedural protection of basic rights. It is the specialized procedure through which the authority having constitutional jurisdiction responds to a claim of amparo arising from an instance of illegal detention. In that regard, article 15 of the Constitutional Jurisdiction Act states: "Habeas corpus is designed to guarantee personal freedom and integrity against the acts or omissions of authorities of any kind, including the judicial authorities, and against threats to such freedom and any unlawful disruption or restriction of the right to move about in the Republic and the right of free residence therein, as well as the freedom of entry and exit."

212. Article 16 of the same Act adds: "If other violations relating to personal freedom in any of its forms are cited under habeas corpus , and the facts relate to an act deemed illegal its motive or intent, this remedy may also be used to resolve such violations."

213. Any person may bring these proceedings by telegram or by any other means of written communication. If telegraphic means are used, they are free of charge, in accordance with article 18 of the CJA.

214. These proceedings, which require no formalities, are brought before the Constitutional Chamber under the supervision of a president or examining magistrate (art. 17, CJA). The Constitutional Chamber is available round the clock for such purposes.

215. The remedy of habeas corpus is no more than a consequence of the State's obligation to provide effective recourse against any violation of internationally recognized human rights. That guarantee is enshrined in article 8 of the Universal Declaration of Human Rights, which recognizes the right of everyone to "an effective remedy by the competent national tribunals for acts violating their fundamental rights..."

216. It is important to emphasize the contribution made by international human rights law in helping to establish the political will needed to place procedural guarantees of protection at the heart of national legislation, one of those being habeas corpus. An awareness has been created that it is not sufficient simply to embody these rights in constitutional texts, so that they are now

respected by the public authorities and by the general public. As a result, in concrete terms procedural action offers the best means of defence.

217. However, the progress made at the national level is fundamentally dependent on two factors: the value assigned by each State-within its hierarchy of law-making bodies and under its constitutional system-to human rights instruments, and the conditions in which its Judicial Power functions.

218. In Costa Rica, under article 7 of the Constitution international instruments are taken into account in judgements on constitutionality, and thus any legislative provision that attempts to eliminate or restrict this remedy would be deemed an unconstitutional breach of that article, under the terms expressed in the Constitutional Jurisdiction Act (Law No. 7135 of 11 October, 1989).

(e) Actions of unconstitutionality

219. These are genuinely independent claims brought against laws and other general provisions which infringe, by act or omission, a constitutional rule or principle, and against inertia, omission and abstention on the part of public bodies (art. 73, CJA).

220. Article 75 of the CJA states: "In order to bring an action of unconstitutionality, there must be a case awaiting decision of the courts which involves either habeas corpus or amparo or is in the process of exhausting administrative remedy, and in which unconstitutionality is invoked as a reasonable means of defending the right or interest considered to have been damaged. No pending prior case is necessary if the nature of the matter is such that no direct harm to an individual is involved, or if it is a question of defending diverse interests or the interests of the community as a whole. Nor shall it be required by the Comptroller General of the Republic, the Procurator General of the Republic, the Attorney General of the Republic or the Ombudsman."

221. Since the last century, the Costa Rican State has promoted laws aimed at ensuring equality between men and women in many spheres. Such is the case of the legal regulations permitting women to own, contract, sell and pawn in their own right, and those which made education free and compulsory for both sexes. Co-education was introduced in 1902. These advances were achieved partly through women's contribution to the pioneering and reform of laws, which frequently called for resolute campaigning on their part, examples being the right to take the school leaving examination, to enter university, to practise law and to become a notary.

222. A very important aspect of these reforms and the newly approved legislation are the actions brought in implementation of the Convention on Human Rights and other international and regional treaties ratified by Costa Rica.

3. Other courts

223. The Law provides for the creation of appeal courts to deal with all matters; at present they operate only in the penal field.



224. The Higher Court of Appeal hears:

(a) Appeals and review cases on matters concerning cognizance of a judge's ruling made in a court of judgement;

(b) Appeals against decisions made by judges in a court of judgement, when the law grants grounds for proceedings;

(c) Appeals in respect of impediments, apologies and challenges involving court members and their deputies;

(d) Jurisdictional disputes which cannot be resolved in courts of judgement;

(e) Disputes that arise between petty sessional courts and courts of judgement.

225. There are different types of court classified, according to the matters they are called upon to resolve, as penal, civil, labour, family, contentious-administrative, agrarian, juvenile penal, or mixed (which operate only in provincial areas and rule on various matters). The courts may enjoy competence and jurisdiction in two or more cantons of different provinces, in one or more provinces, and across the whole country.

#### 4. Lower courts

226. There are different kinds of courts of first instance and penal courts classified, according to the cases they hear, as civil, penal, contentious-administrative and civil financial, family, labour, agrarian, and juvenile penal, as well as others such as the law may determine.

227. Small claims courts and petty sessional courts operate in all cantons of the country, handling cases involving sums not greater than 300,000 colones for which the proceedings are straightforward. The categories are civil, contentious-administrative, traffic, minor infringements and alimony.

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