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**COSTA RICA:
FEMALE LABOUR MIGRANTS
AND
TRAFFICKING IN WOMEN AND CHILDREN**

by

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Foreword

Changing labour markets with globalization have increased both opportunities and pressures for women to migrate. The migration process and employment in a country of which they are not nationals can enhance women's earning opportunities, autonomy and empowerment, and thereby change gender roles and responsibilities and contribute to gender equality. But they also expose women to serious violation of their human rights. Whether in the recruitment stage, the journey or living and working in another country, women migrant workers, especially those in irregular situations, are vulnerable to harassment, intimidation or threats to themselves and their families, economic and sexual exploitation, racial discrimination and xenophobia, poor working conditions, increased health risks and other forms of abuse, including trafficking into forced labour, debt bondage, involuntary servitude and situations of captivity. Women migrant workers, whether documented or undocumented, are much more vulnerable to discrimination, exploitation and abuse – relative not only to male migrants but also to native-born women. Gender-based discrimination intersects with discrimination based on other forms of “otherness” – such as non-national status, race, ethnicity, religion, economic status – placing women migrants in situations of double, triple or even fourfold discrimination, disadvantage or vulnerability to exploitation and abuse.

To enhance the knowledge base and to develop practical tools for protecting and promoting the rights of female migrant workers, a series of case studies were commissioned. These studies were intended to provide background materials for an Information Guide on Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers. The Guide, which is comprised of six individual booklets, aims at assisting and enhancing the efforts of government agencies, workers' and employers' organizations, non-governmental organizations and civil society groups in sending, transit and destination countries to protect the human rights of women migrant workers in the different stages of the migration process.

This working paper is based on one of the country case studies. The countries covered included Bolivia, Costa Rica, Italy, Japan, Nicaragua, Ethiopia, Nigeria, the Philippines, Sri Lanka and the United Arab Emirates. The focus was on the situation of the women migrant workers in their families, workplaces, communities and societies in sending and receiving countries and also on the initiatives, policies and programmes, “good” and “bad” practices implemented by government, private recruitment and employment agencies and a wide range of social actors to assist and protect women migrants against exploitation and abuse and to prevent them from being trafficked.

The case studies represent a collaborative effort between the Gender Promotion Programme and the International Migration Branch, as well as a number of Area and Regional ILO Offices. Katerine Landuyt had main responsibility for commissioning the case studies. Tanja Bastia provided technical guidance to the national consultants, while Minawa Ebisui and Tiina Eskola provided editorial and formatting assistance.

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Methodology

This study is part of a series of case studies commissioned by the International Labour Organisation (ILO), through its Gender Promotion Programme (GENPROM), to ascertain the situation of female migrant labourers in both sending and receiving countries. The project's main objectives are to obtain systematized information and determine the best practices in prevention of labour exploitation among female migrants. The study was carried out between February and April 2001. In Costa Rica, a team of researchers was convened to research, analyse, and systematise the information. Ana Isabel García (main consultant) and the group of associate consultants at the Gender and Society Foundation (GESO, *Fundación Género y Sociedad*): Manuel Barahona, Carlos Castro, and Enrique Gomáriz, comprise the team. This team also benefited from the support of the research assistants, María Rojas and Margot Marín.

The research methodology combines primary and secondary documentary sources with interviews (focus groups) with female workers, as described below:

(a) **Primary and secondary documentary sources**

Costa Rica has been the seat of an ongoing research effort on the impact of the migration phenomenon on different aspects of life:

- research conducted by academic institutions, primarily at the Academic Headquarters of the Latin American Faculty of Social Sciences (FLACSO, *Facultad Latinoamericana de Ciencias Sociales*) in Costa Rica and the University of Costa Rica, as well as previous GESO studies
- documents prepared by international organizations, in particular the International Organization for Migration (IOM)
- documents prepared by public institutions dealing with the impact of immigration on Costa Rica, as well as public policies that have been adopted. In particular, the Annual Report of the Office of the Ombudsman (*Defensoría de los Habitantes*) includes a section on the situation of migrants and institutional policies on immigration
- since 1997, the National Institute of Statistics and Census (INEC, *Instituto Nacional de Estadística y Censos*) has included a question on nationality in the Employment Module of the Household Survey carried out every July. This question gathers some employment and socio-demographic characteristics of migrants in Costa Rica
- laws and bills related to migration issues and protection of women's rights.

(b) **Group interviews**

The following sessions and activities were carried out to ascertain the views, needs, concerns, and proposals of female migrant labourers:

- two focus groups with household maids in the San José Metropolitan Area. Of these groups, one included workers affiliated to the Household Workers' Association (ASTRADOMES, *Asociación de Trabajadoras Domésticas*), and the other by workers from the María Auxiliadora Training Centre who had recently come to this country. These activities were held simultaneously on 1 April 2001.
- one focus group with urban workers from La Carpio marginal settlement, held on 20 April 2001. This activity was undertaken in conjunction with the Lutheran Church, which is involved in social development programmes in the settlement and participates in the Permanent Forum on Migrant Populations.

-
- one focus group with NGO representatives as key informants. These NGOs work with women who are exploited or are sex workers. The results from this focus group are reported in the section related to trafficking in persons. This session was held on 17 April 2001.

Interviews with two key informants carried out on 21 April 2001, in La Tigra de San Carlos, in the northern part of the country. It was not possible to conduct a larger session with female agro-industrial workers due to coordination difficulties. One of the interviewees is in charge of Catholic Church's Social Pastoral activities in La Tigra. The other interview was held with a Nicaraguan worker (Esperanza).

A significant difficulty in implementing these activities is the absence of migrant labour organizations in fields other than domestic service. ASTRADOMES is an example of the latter, but, no female migrant organizations have been created in other labour sectors.

Introduction

The socio-economic context

According to the latest census data¹, approximately 3.8 million people live in Costa Rica. This Central American country, with a territorial extension of 51'100 km² (approximately 19'700 sq. miles), is located on the isthmus between Panama and Nicaragua, and is also bordered by the Caribbean Sea and the Pacific Ocean. Costa Rica has seven provinces and 81 municipalities.

Costa Rica has undergone demographic transition including slow growth and an aging population. International immigration is a significant influence: immigrants make up between 7.8 per cent and 8.8 per cent of the total number of inhabitants (Brenes, 1999; PCP-INEC, 1998).

Even though Costa Rica shares most of the economic and productive structural characteristics of underdeveloped countries, it has shown significant social progress. The 1999 United Nations Human Development Index (HDI) places Costa Rica within the group of nations with high levels of human development, number 45 among 174 nations, with an HDI of 0.801.

After the 1948 Civil War, Costa Rica experienced sustained economic growth, along with social progress and political stability, all within the functional context of a development model focused on diversification of the productive structure, import substitution, and a public sector very active in creating social and material conditions benefiting the development process. The post-WWII international setting was favourable to general expansion. In 1949, the country abolished the army – an event extremely relevant to Costa Rica's development.

Even as the international recession of the 70's was alerting the country that its development model was exhausted, the 1976 coffee boom and access to abundant credit in international financial markets allowed Costa Rica to preserve its essential aspects. The economic crisis of the 80's (determined, domestically, by the limits of the development model and, internationally, by a deepening economic crisis) led, first, to the application of stabilization programmes and, immediately thereafter, to the search for a new growth model. This new model considered export promotion as pivotal for the country's reinsertion into the international economy (Structural Adjustment Programme).

In general terms, adjustments made in Costa Rica have been gradual and varied. Results have been determined to a great extent by the correlations of social forces (a complex system of weights and counterweights) and the country's balance-seeking political style. The new development model's profile, however, is not totally accepted. Among the numerous topics and concerns still open to debate are: the internal debt problem, heterogeneity and articulation of the productive sectors, tax reform, the future of telecommunications and insurance, and the sustainability of the national pension system.

Costa Rica's exports have significantly changed, an on-going displacement of such traditional products as coffee and bananas in favour of new products (e.g., non-traditional agricultural products and high technology products, due to the recent establishment of INTEL in the country) and services (mainly tourism). In contrast to other Latin American

¹ The most recent National Population Census was carried out in the year 2000, and, as of this writing, only preliminary information has been released.

countries experiencing structural adjustment, Costa Rica has protected social investment. In some instances, social spending shows growth in relation to both the structure of public sector expenditures and the Gross Domestic Product, an element that represents fairly well the varied nature of the adjustment.

Moreover, the State continues to be a decisive force in the economic (electricity, telecommunications, insurance services, finance) and social life of the country (health, education, water, environmental protection). The State's structural adjustment has surpassed the narrow boundaries of fiscal policy debate in terms of its size and operation.

Data from the last two years (1999 and 2000) show dramatic slowdown, with the country caught between a weak fiscal base and a difficult external situation. Gross Domestic Product (GDP) growth reached 8.3 per cent in 1999, but fell to 1.7 per cent in 2000. The increase in 1999 was mainly due to Intel, whose added value grew powerfully (281 per cent in that year), and represented close to 7 per cent of the total economy. The rest of domestic production, however, grew much more modestly, at only 2.9 per cent in 1999. This rate is below the average rate of growth of GDP in the 90's, and, in effect, represents a fall in GDP per capita.

The abrupt decline in 2000 was due to a combination of factors: the ongoing decline in internal market activity and the strong deceleration in Intel's activity due to economic slowdown in the United States. The result was not only weak growth in GDP (1.7 per cent), but also a reduction of GDP per capita (-0.5 per cent). The weakening of Intel's activity has also produced a decrease in total Costa Rican exports, thus increasing the external trade imbalance.

Public finances remain a vulnerable area. While tax revenues increased by 17 per cent, total expenditures increased by more than 20 per cent. The central Government had a deficit for 1999 equivalent to almost 4 per cent of GDP. Debt service increased the most (by 40 per cent), but other expenditures also increased (by 15 per cent), even above the inflation rate.

In 1998, an estimated 20 per cent of all households were living below the poverty line. In 1990, this proportion was 27 per cent, implying a relative reduction. Between 1998 and 2000, the level of poverty has increased slowly (from 19.7 per cent to 21.1 per cent), and a major increase is expected in 2002, as a consequence of declining economic activity.

In 1998, almost 35 per cent of Costa Rican households that could not meet their basic necessities had a female head of family. Generally, women are paid a lower wage than of men in all labour categories and, of these categories, commerce represents the greatest difference. Traditionally, economic opinion has considered household production, largely carried out by women, as making a null contribution to the country's economy. In 1997, the State of the Nation Project estimated that the value of household labour, in fact, represents 13 per cent of GDP.

The country's education and health conditions are amongst the best in Latin America. Education is free and compulsory for nine years, and illiteracy is 7 per cent. No major difference is made between males and females in terms of formal education. Life expectancy in Costa Rica, a global health indicator is 76 years: 78 for women and 74 for men.

Although there has been an appreciable reduction in discrimination against women over the last 30 years, it still occurs, mainly according to the strategic interest of the different spheres of society. For instance, in the 50 years that have passed since women gained suffrage, only 17 female citizens have been appointed as ministers or have had the rank of minister. This inequality can also be appreciated in the legislative area. In the mid

80s, the proportion of women among the total members of parliament was never higher than 10 per cent. Currently, in spite of new legislation on gender equality and a system of quotas implemented in the 90's, women still represent only 19.3 per cent of the total members of the legislature.

General trends in labour migration

The most recent National Population Census was carried out in Costa Rica in June 2000², and its results were not yet available for inclusion in the research. So, currently there are only preliminary and indirect estimates of the total number of migrants in Costa Rica.

The official figures provided by the General Directorate of Migration and Alien Status (DGME, Dirección General de Migración y Extranjería) convey the magnitude of the migration phenomenon in Costa Rica. These include the amnesty process for Central American migrants declared by the Government in December 1998, as well as data provided by the last census and other studies.

Around 155'000 people filed formal applications for residence permits during the amnesty period (97 per cent were Nicaraguans) and 126'000 were approved (95 per cent were Nicaraguans). If we add another 106'000 Nicaraguan citizens who had already applied for legal residence through normal channels, then we can estimate that in 1999–2000 some 225',000 Nicaraguans were living in Costa Rica with migration documents in order.

When the migration amnesty began in Costa Rica in February 1999 (see section 3(a), a total of 106'241 Nicaraguans were already legal residents in Costa Rica (Morales, 1999-a; p. 17). This means that most Nicaraguan migrants at that time were illegal.

Preliminary census data has led to an estimate of 325'000 migrants residing in the country (La Nación, 1 February 2001).

Other studies (Brenes, 1999; Chen *et al.*, 2000) estimate that there are between 300'000–340'000 Nicaraguans in the country. As a matter of fact, a reliable estimate of the number of migrants based on demographic methods (Brenes, 1999), calculates that there are between 300'000–340'000 Nicaraguans in the country, that is, between 7.8 per cent and 8.8 per cent of the total population of Costa Rica³. Costa Rica is a country with a high immigration rate. By comparison, migrants represent 9.3 per cent of the United States' population and approximately 5 per cent of Europe's (Potinos; p. 50).

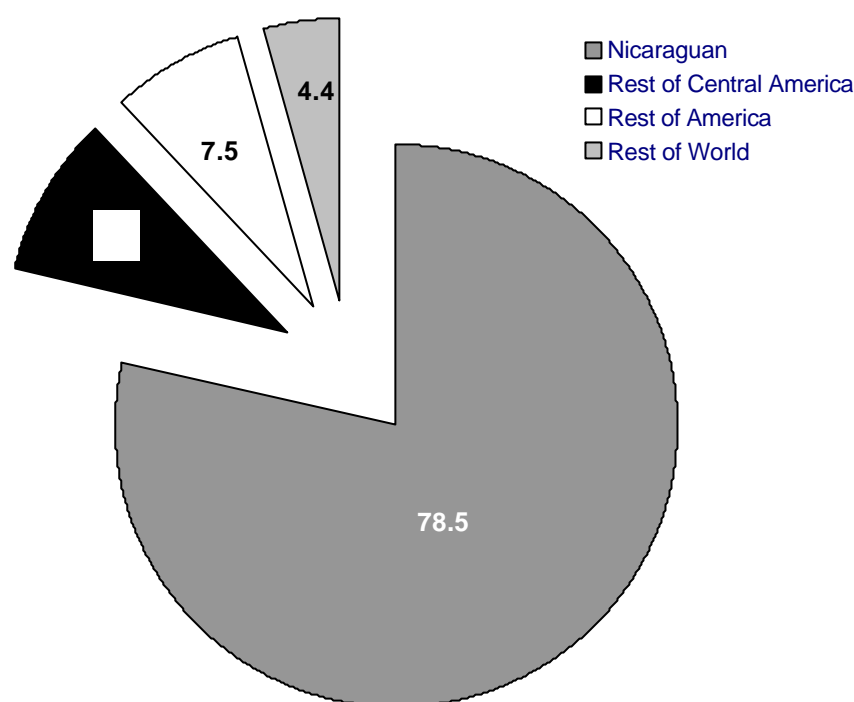
A recent analysis carried out by the Central American Population Programme of the University of Costa Rica (Chen, *et al.*; p. 11), shows a similar result: 315'000 Nicaraguan immigrants. This estimate was made on the basis of the number of births to Nicaraguan mothers and the fertility rate of Nicaraguan women.

Thus, Nicaraguan immigration has become a phenomenon of the major importance in Costa Rican society, Migrants of other nationalities have less relevance or impact than the aforementioned group, which represents 78.5 per cent of all immigrants (see figure 1).

² The previous Population Census was carried out in 1984.

³ Percentages determined in relation to an estimated population of 3'856'191 inhabitants in 1999 (PCP-INEC, 1998; p. 39).

Figure 1: Costa Rica: Immigrants according to nationality, in percentages, 1999



Source: Based on INEC, Special Tabulations, Household Survey.

The importance of Nicaraguan immigration in relation to other nationalities can also be perceived in the number of immigrants refused entry in the last five-year period of the previous century, for lack of proper documentation. Of this number, 99 per cent are Nicaraguan (see table 1).

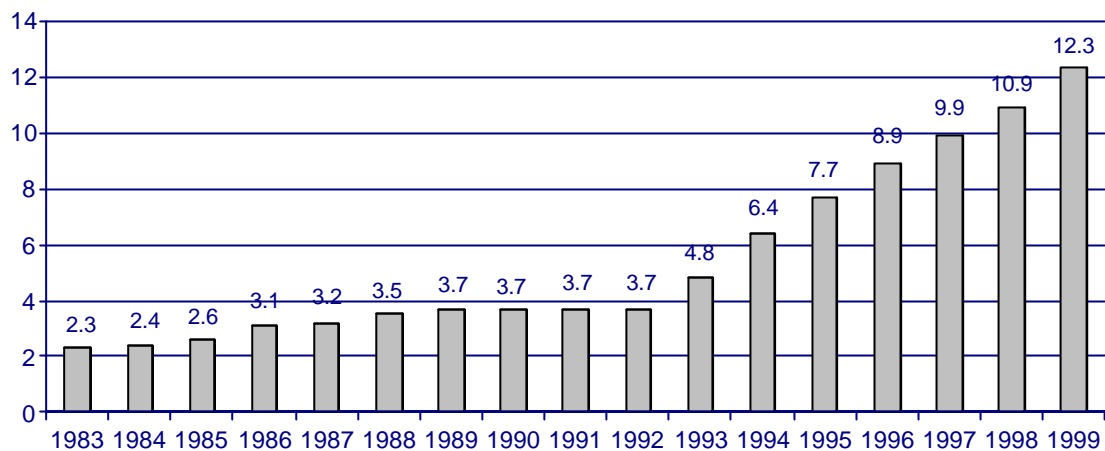
Table 1: Illegal immigrants refused entry, 1995–2000

Year	Nicaraguans	Other nationalities	Total	Nicaraguans as a percentage of total
1995	57'333	240	57'573	99.6
1996	61'801	345	62'146	99.4
1997	22'392	279	22'671	98.8
1998	57'953	447	58'400	99.2
1999	42'694	383	43'077	99.1
2000	66'769	434	67'203	99.4

Source: General Directorate of Migration and Alien Status.

Another indicator of the migration stream is the increase in the number of births to Nicaraguan mothers. This figure increased threefold over the eight-year period 1993–1999: from 3.7 per cent of all births to 12.3 per cent (see figure 2).

Figure 2: Children born in Costa Rica to Nicaraguan mothers, as a percentage of the total number of births registered in the country, 1982–1999



Source: Based on the Central American Population Programme, University of Costa Rica.
 Website: www.populi.eest.ucr.ac.cr/observa/index1.htm

As mentioned above, migrants represent between 7.8 per cent and 8.8 per cent of the population, and are responsible for 12.3 per cent of total births due to the higher total fertility rate (TFR) of Nicaraguan migrant women. In this group, between 15 and 44 years of age, women have an average of 3.6 children, 29 per cent higher than the Costa Rican TFR of 2.8 children per woman (Chen, *et al.*; p. 10). This difference is even more prominent for the group of Nicaraguan women between 15 and 19 years old, whose fertility rate is 55 per cent greater than that of Costa Rican women in the same age group, and 25 per cent higher than that of the same age group in Nicaragua (*loc. cit.*).

A series of socio-demographic and labour characteristics separates Nicaraguans from other migrants. Nicaraguan migrants hold typical migrant jobs (“dirty, difficult, and dangerous”), jobs that local workers tend to reject because of their lack of stability, low wages, long working hours, low social prestige, and limited possibilities for improving social status (Arango; p. 39).

The main differences between Nicaraguan migrants and migrants from other nationalities are the following:

- Nicaraguan migrants have an educational level below that of Costa Ricans and migrants from other countries. The average number of years of formal education is 5.7 years for Nicaraguans, 7.4 years for Costa Ricans, and 11.1 years for migrants from other countries (Pisoni; p. 11).
- unskilled groups stand out as the most significant labour group among male and female Nicaraguan migrants. Among these, 23.4 per cent of Nicaraguans are agricultural workers, 29.8 per cent, industrial workers, and 30.4 per cent, personal service workers. The contrary is true for migrants (both male and female) of other nationalities, where the most important groups are professionals (23.2 per cent) and directors and managers (17.2 per cent) (among Nicaraguans, these two groups represent 1.6 per cent and 1.3 per cent respectively) (Pisoni; p. 37)
- the average income of migrants from other nationalities is 2.4 times higher than the average income of Nicaraguan migrants (*ibid*; p. 38)

- Among employed immigrants, 21,7 per cent of those of non-Nicaraguan nationalities are employers or active partners, in contrast to 3.1 per cent of Nicaraguan migrants (*ibid.*; p. 39).

Thus, we find that Nicaraguans represent a largely unskilled labour force, while migrants from other nationalities are mainly white-collar workers.

Nicaraguan immigration occurs principally for labour issues, since the participation rates of the economically active population (EAP) are considerably higher than those of Costa Ricans in the same age groups. In addition, the most important age groups are those between 20 and 29 years of age. According to the 1999 Household Survey, the gross participation rate among Nicaraguan males in Costa Rica is 89.2 per cent, surpassing that of Costa Rican males, which is 74.4 per cent. Among women, the Nicaraguan rate is 49.4 per cent, while the Costa Rican rate is only 34.8 per cent (Castro, 2000; p. 3).

The age structure of Nicaraguan migrants is considerably different from the Costa Rican age structure and that of migrants of other nationalities. The main difference, which emphasises the labour-related nature of Nicaraguan immigration, has to do with the influence of the 20 to 29 year-olds. This group represents 30.9 per cent of all Nicaraguans in the country, which is different from the proportion this age group represents in the Costa Rican population: 15.4 per cent. The migrant populations of other nationalities are more influenced by the age groups of 30 to 49 years, and 50 or more years of age (see table 2).

Table 2: Costa Rica: Population by nationality according to age groups, 1999

Gender/Age	Costa Rican	Nicaraguan	Other migrants	Total
Total	100.0	100.0	100.0	100.0
Men	49.6	48.9	51.5	49.5
Women	50.4	51.1	48.5	50.5
Total	100.0	100.0	100.0	100.0
0–11 years	26.9	16.1	9.7	26.1
12–19 years	17.0	19.0	7.8	16.9
20–29 years	15.4	30.9	20.8	16.0
30–49 years	26.1	26.0	38.8	26.3
50 years or more	14.4	7.9	22.4	14.5
Age unknown	0.2	0.1	0.4	0.2

Source: Based on INEC, Special tabulations, Household Survey.

According to the gender composition of the Nicaraguan population age structure, there is no significant difference between men and women, in both cases the most relevant age groups are those between 20 to 29 years and 30 to 49 years old (see table 3) and, as was mentioned previously, from a manpower perspective, these are the most productive ages.

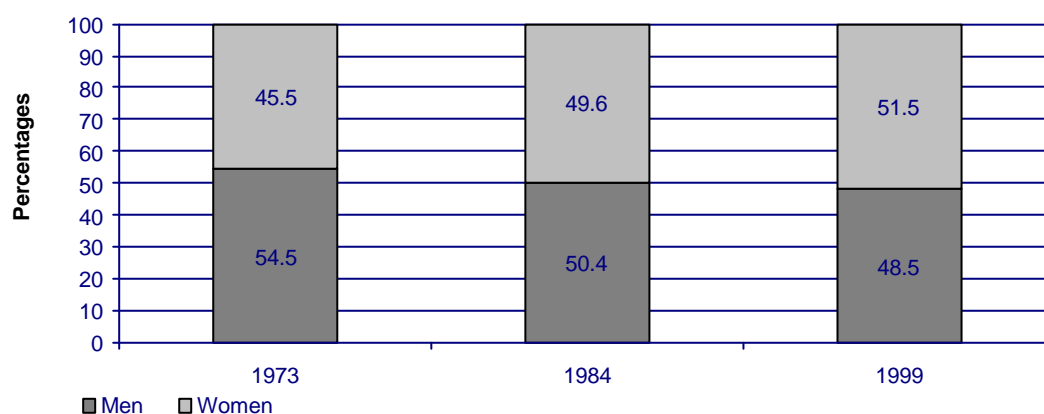
Table 3: Costa Rica: Population, by nationality and gender, according to age groups, 1999

Age group	Men				Women			
	Total	Costa Rican	Nicaraguan	Other migrants	Total	Costa Rican	Nicaraguan	Other migrants
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
0–11 years	27.0	27.9	16.5	11.2	25.1	26.0	15.7	8.2
12–19 years	17.0	17.3	17.2	5.4	16.8	16.8	20.7	10.4
20–29 years	15.8	15.1	32.0	17.1	16.2	15.6	29.8	24.8
39–49 years	25.9	25.7	25.3	42.1	26.7	26.4	26.8	35.3
50 years or more	14.0	13.8	8.8	24.2	14.9	14.9	7.0	20.5
Age unknown	0.3	0.3	0.2	0.0	0.2	0.2	0.0	0.8

Source: Based on INEC, Special tabulations, Household Survey.

There are two main characteristics to be emphasised in the ongoing migration phenomenon in Costa Rica. First, during the 90s, female presence among Nicaraguan migrants grew, even though we cannot refer to a feminisation of this phenomenon⁴, since a difference of 1 per cent is not significant. However, it should be emphasized that this fact is representative of a change with respect to the situation prevalent in the 70s, when men represented a larger proportion, 54.5 per cent, of all Nicaraguan migrants to Costa Rica (see figure 3).

Figure 3: Nicaraguan migrant population in Costa Rica, by gender, 1973–1999



Source: Based on population censuses carried out in 1973 and 1984, Household Survey, 1999.

On the other hand, between 1997 and 1999, age structure of the Nicaraguan migrant population in Costa Rica changed, due to a considerable increase in the percentage of children and adolescents. The group aged 0–11 grew from 11.4 per cent to 16.1 per cent, and those 12–19 increased from 13.5 per cent to 19.0 per cent (see Figure 4, next page). This phenomenon, along with the increasing proportion of births to Nicaraguan women in Costa

⁴ So-called migration “feminization” is not a new phenomenon, since it has been present in international migration from Central America and Mexico to the United States since the 70’s (CEPAL–CELADE–OIM, 1999; p. 20).

Rica, shows a trend towards settlement. Once migrant adults are employed, they tend to bring their families, including under-age members, into the country.

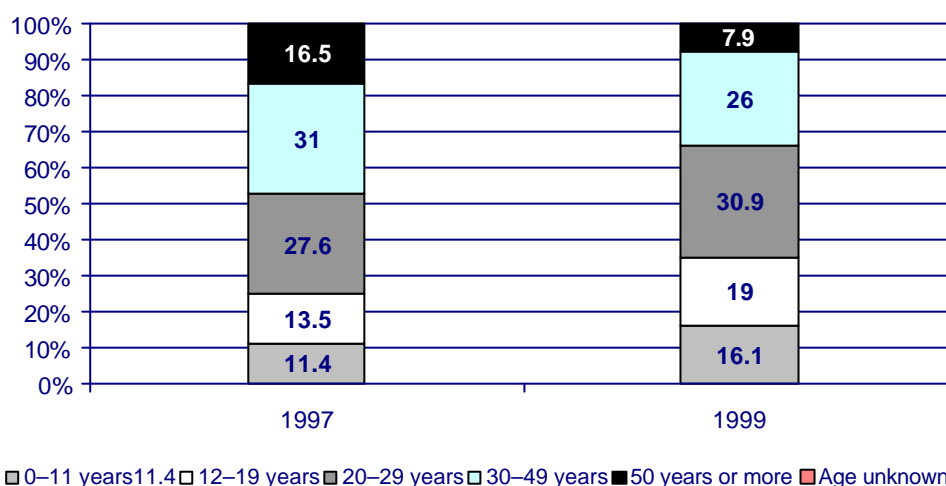
Factors of attraction

The factors that attract Nicaraguan immigrants begin to appear with a series of changes in the Costa Rican economic model occurring after the mid-eighties, changes that were consolidated in the 90s.

The factors that attract immigrants are a result of the following phenomena:

Development of new productive activities in Costa Rica. These activities increased the need for manpower in the country, and some of them are part of the new economic model that has been developed in Costa Rica since the mid-80s. This model focuses on export-promotion.

Figure 4: Costa Rica: Nicaraguan migrants, according to age groups, 1999



This model involves a series of non-traditional agricultural activities (fruits, tubers, ornamental plants), tourism growth and increased banana production. Other activities, such as construction, also grew in the 90s as a result of increased activity in trade and housing programmes. Additionally, some of the country's traditional economic activities, such as the coffee harvest, faced scarce manpower supplies. Similarly, new job opportunities for Costa Rican women created demand for labourers in household services. Table 4 presents information on the principal activities with a significant presence of Nicaraguan migrants. New labour market segments consisting of large proportions of Nicaraguan migrants have appeared in these activities.

- Income differentials between Costa Rica and Nicaragua are a significant motivation attracting immigrants from that country. The average income in Costa Rica is double that in Nicaragua, and this difference is repeated to a greater or lesser extent across all economic sectors (see table 5).
- Migrant residential concentrations have sprung up, acting as reception centres for new migrants and serving as an arena for establishing solidarity networks. These residence zones are located in the San José Metropolitan Area and their importance has increased to the point that, according to Ministry of Housing estimates (Castro, 2000; p. 13), Nicaraguans constitute 42 per cent of the population in San José's marginal urban settlements. There are some similar zones in the Atlantic region and the northern region of the country.

- among the male and female Nicaraguans expecting to emigrate, Costa Rica is perceived as a country with better economic opportunities and with great demands for manpower. In a thesis that studied the La Carpio urban marginal settlement, 55.6 per cent of interviewees expressed that their labour situation had improved since immigrating to Costa Rica, but 28.6 per cent expressed that their housing conditions had worsened (Marín, *et al.*; p. 63).

The attraction factors are similar for both genders, since they relate to the foregoing elements: job opportunities and income-generation. However, gender segmentation exists in the migrant labour market: Nicaraguan women get non-skilled jobs in personal services (household maids, waitresses, cooks, salespersons), while men are employed in activities such as seasonal labour in agricultural harvests, permanent agriculture (bananas), and construction. In agriculture, female participation is mainly present in product-packaging tasks in agro-industrial enterprises (bananas, tubers, ornamental plants, among other products), but they are also present in crop-harvesting; however, the proportional size of their involvement is as yet unknown⁵.

Table 4: Economic activities with a massive presence of Nicaraguan workers in Costa Rica, 1997–2000

Sector of activity	Gender	Place where it occurs	Season
Agriculture			
Melon harvest	Male Female	Parrita and Garabito	February to April
Melon harvest	Male Female	Liberia, Filadelfia and Nicoya Peninsula	January to May
Orange harvest	Male	San Carlos	March–April, and September
Bean harvest	Male	Los Chiles, Upala and Guatuso	January–February
Banana	Male	Southern and Atlantic regions	Throughout the year
Coffee	Male Female	Coffee plantations in almost every region of the country	November to March
Sugar cane cutting	Male	Pérez Zeledón, Turrialba, Juan Viñas, San Carlos, Puntarenas, Grecia, San Ramón and Guanacaste	December to May
Agro-industry	Female Male	Atlantic and Northern Huetar (San Carlos) regions	Throughout the year
Construction	Male	Mainly in the most populated zones	Throughout the year
Household work	Female	Mainly in the Central Region, secondarily the Northern Huetar region.	Throughout the year
Other personal services	Female	Regions with a concentration of migrants (Central, Northern and Atlantic)	Throughout the year
Industry	Male Female	Mainly in the Central region.	Throughout the year

Source: Ministry of Labour, 1998-*a*; interview with Johnny Ruiz, Department of Labour Migration, Ministry of Labour; author's estimates based on the Household Survey.

Table 5: Average income in Costa Rica and Nicaragua, in US dollars, 1999

⁵ No fieldwork has been carried out to study female participation in agricultural harvests.

Sector of activity	Nicaragua	Costa Rica	Nicaragua as per cent of Costa Rica	Relation*
National average income	179.8	352.8	51.0	2.0
Agriculture	43.1	241.7	17.8	5.6
Mining	249.6	381.7	65.4	1.5
Industry	233.4	333.9	69.9	1.4
Electricity, gas and water	204.7	499.5	41.0	2.4
Construction	209.5	324.9	64.5	1.6
Trade	241.6	359.1	67.3	1.5
Transportation and storage	245.5	427.1	57.5	1.7
Financial institutions	472.3	562.3	84.0	1.2
Social and personal services	195.7	390.2	50.2	2.0

* Costa Rican average income divided by the Nicaraguan average income.

Source: Based on figures obtained from the Central Bank of Nicaragua, INEC and the Central Bank of Costa Rica.

Trafficking in persons, human contraband, and illegal immigration

Organized trafficking in persons in Costa Rica in the strictest sense must be differentiated from the arrival of illegal immigrants without legal documents by means of two mechanisms: human contraband or smuggling performed by the so-called *coyotes*, and surreptitious immigration of individuals without documents, not using the aforementioned mechanism.

According to the definition given to illegal migrant trafficking presented at the XIth Seminar on Migrations organized by the International Organization for Migration (IOM) (Geneva, 26–28 October 1994), trafficking implies the following four elements:

- a trafficker or intermediary that facilitates the border crossings
- the payment of the trafficker by the migrant or someone else in his/her name
- that the act is illegal or requires several illegal acts to be carried out
- that the migrant has wilfully sought out the trafficker; with the reservation that the migrant's will is not necessarily referred to breaking the law (DGME–IOM; p. 2).

Regarding trafficking in persons, Costa Rica plays the role of a transit zone. According to a recent (2000) study carried out by the General Directorate of Migration and Alien Status (DGME) and the IOM, organized migrant trafficking in Costa Rica is carried out by international bands, moving people from South America, Asia, Africa and Europe to the United States (DGME–IOM; p. 5). There are also local trafficking networks, but they are tied into international networks. According to information from migration officials, three trafficking bands operate in the southern zone of the country and evidence exists of four organized bands at the Juan Santamaría International Airport (*ibid.*; p. 6).

To date, no national legislation regulates or prohibits international trafficking in persons, and it was not until very recently that the DGME drafted a proposal for a law (see chapter 2), to convert trafficking in persons into a punishable offence (*idem*, p. 9).

Immigrants coming from Nicaragua make use of other mechanisms to get into the country, and there are no accusations or evidence of immigrant trafficking from this point of origin. A possible explanation is the relative ease with which the country can be entered, since there are numerous access routes, such as trails and roads far from police control or by going cross-country across farms, mountainous zones, and even using the rivers and sea-going boats (Samandú; Pereira; p. 13; DGME–IOM, p. 4). Making the trip sometimes implies embarking on true personal odysseys (see box 1).

When Nicaraguan immigrants enter the country illegally, they use two main mechanisms. First, they enter as human contraband or by paying *coyotes* who know how to evade migrant controls. Second, by following a fellow migrant who knows the routes into the country. In this last instance, no money is involved.

Coyotes use two mechanisms: a) the formation of groups of immigrants in Nicaragua, who are then led as far as the Central Valley of Costa Rica; and b) transportation of people all along the border for short distances (once the migrant is in Costa Rica, the *coyotes*' function end) (Alvarenga; pp. 24–25).

Immigrants use *coyotes* because of the monetary cost of entering the country with documentation in order. This cost is a significant amount for a low-income person, in the case of Costa Rica, approximately US\$115⁶. Sometimes, immigrants with legal documents travelling home to visit their relatives in Nicaragua pay *coyotes* around US\$20 to get across the border without having to go through the legal process, which would imply paying an US\$80 fee, an amount that may represent as much as 60 per cent of a household maid's minimum wage⁷.

Furthermore, it is important to stress the fact that Nicaragua does not have a well-established culture of documentation, so that they do not value the importance of having their legal documents in order and at hand. Nevertheless, it is also important to take into consideration that the informal mechanisms used to gain access to Costa Rican territory do not always guarantee first-time immigrants that they will pay an amount such as the one mentioned here. All too frequently they are exploited by abusive *coyotes* and, in some cases, they end up paying an amount higher than what they would have spent if they had tried to enter the country legally (Acosta, interview cited).

A phenomenon that may have more serious characteristics is the increase of immigrant sex workers in Costa Rica, who have come here because of the demand generated by sexual tourism⁸.

⁶ This amount corresponds to US\$50 per passport, US\$50 per visa and US\$15 for transportation expenses.

⁷ Focus groups with immigrant household maids carried out on 1 April 2001.

⁸ In Costa Rica, the number of tourists quadrupled between 1981 and 1999, from 261'000 tourists to 1 million. Even when a great proportion of tourism is ecological and family-oriented, an un-estimated percentage corresponds to sexual tourism. There are several websites on the Internet that promote Costa Rica as a sexual tourism destination and provide discussion and information forums for sexual tourists; in addition, Costa Rica is included in international prostitution directories. There are also websites that promote escort services where male and female sexual escorts are offered to tourists.

Nicaraguan women tell of their migration experiences: entry to Costa Rica

A group of 26 Nicaraguans narrated their migration experiences in an autobiographical contest, which concluded in May 1999. Carlos Sandoval, a professor and researcher at the University of Costa Rica, organized this activity. Here is a synthesis of some of these histories*.

Nereyda

"...I came to this country on October 4, 1992 after eight days of walking cross-country, walking almost 24-hours a day and carrying my few belongings in a small backpack, but with my heart filled with illusions and hopes in search of better opportunities. However, the journey was very dangerous, because of the risks I had to go through in those mountains: hunger, mosquitoes, intense cold, and muddy trails. Nevertheless, when I reached my objective I never let my mind and heart wander away from my faith in God and that I was making this sacrifice because of my children, since my economic situation would not let me enter Costa Rica legally..."

Verónica

"...I wanted to go to Costa Rica to work and make some money to raise my children, and so that's what I did on 23 December 1997... I did not have the money to come here, but some friends of mine came and I told them I was going with them, so I left my mother's house on January 6. I asked her to take care of the children; she agreed to, but she was sad because none of her daughters had gone to such a faraway place... I walked for 12 hours to get to Santa Cecilia and once there the guard caught us... After that a journalist helped me get in, as he said I was coming to work for him. I had to work WALK? for three days in order to get here, to San José.

Aracely

"I came to Costa Rica because I really needed to, since I have someone to raise. When a child says, 'Mommy, I'm hungry,' and you don't even have a piece of bread to give him... I've gone through this situation with my son... when he was sick I didn't have money to buy some pills. In Nicaragua, everybody is poor. I came to Costa Rica in September 1997, and I came the same way as the first time, with a special permit that is valid for three days, without documents. You have to come this way because you don't have money to get a passport..."

Michaela

"...It's been five years since I came to Costa Rica. I have four children, one of them in Nicaragua and three in Costa Rica, who are studying. When I was pregnant, I didn't have any other option so I decided to come here. I was two months pregnant and desperate because I didn't have a job. My husband was in the same situation because President Violeta started to sell state-owned companies so we lost our jobs. I talked to some of my neighbours but I knew that because of my condition I was not going to find anything, but they welcomed me with housing, food and bus money, but they didn't know about my condition and I was ashamed to tell them because they would worry about me... All that suffering, coming through the mountains and pregnant. I had a passport with a visa, but a friend that I met on the way convinced me not to come alone. I suffered and cried a lot, you have no idea of all I suffered when I left my family and children, risking everything to look for a better life. God has helped me suffer patiently..."

Lisette

"...I migrated to Costa Rica in 1994 when I was 22 years old because the economic situation forced me to leave my family to give them economic resources so they could continue living. Besides, I was told that in Costa Rica everything was much better..."

* Some spelling and composition or style changes were made with respect to the original narrations by the Nicaraguans.

Source: Sandoval, Carlos (compiler). *How do I feel in Costa Rica? Nicaraguan autobiographies*. University of Costa Rica: Institute of Social Research, Document Series, 2000.

There is no information available on this phenomenon, but it is possible to obtain an incomplete idea with data provided by organizations that work directly or indirectly with this population⁹:

⁹ A focus group with representatives of NGOs specialized in care and attention of exploited women and female sex workers. The following organizations participated in the focus group: FUNDASIDA, Casa Alianza, Esperanza Foundation and "La Sala", a project sponsored by ILPES, 17 April 2001.

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- according to FUNDESIDA Foundation, which has a joint project with the Costa Rican Social Security Fund (CCSS, *Caja Costarricense de Seguro Social*) dedicated to the prevention of sexually transmitted diseases, 40 per cent of the women they treat are immigrants (primordially Dominicans, but there are also Nicaraguans and Colombians)
 - between 10 per cent and 15 per cent of the female sex workers that participate in the “La Sala” project run by the Latin American Institute for Health Prevention and Education (ILPES, *Instituto Latinoamericano de Prevención y Educación en Salud*) are migrants.

Although not all of these women get into the country by means of trafficking in persons, it is difficult to estimate the proportion subject to trafficking, in the sense that people or networks in their country of origin pay their travel expenses to Costa Rica, housing and placement in brothels. In return, they must repay the trafficker the money he/she has invested in them (Focus Group with NGO’s on sexual exploitation). Nevertheless, there is no evidence that these women came into the country under deception and, according to key informers consulted for this study, they are usually aware that they come to work in the sex trade.

According to the sources, this traffic is related mainly to Dominican and Colombian women. In the case of Nicaraguans, their involvement in the sex trade derives from their labour immigration, as they are women coming into the country in search of employment and are then recruited by local procurers. In any case, according to the same sources, some evidence exists of women being contacted for these activities just after crossing the border. This is a phenomenon that is but one part of what has been called the “global sex trade and industry” (Orozco; p. 8), and prostitution, trafficking and trade in women and pornography are parts of it.

There are two situations that make this phenomenon more complex:

- sex industry-related trafficking networks have been identified in Costa Rica. They recruit Costa Rican women (in some cases by deception) to work in Canadian brothels (Focus Group cited). Covenant House (*Casa Alianza*) representatives have pointed out that some of these females are minors. The procurers use fraudulent marriages so that these girls obtain legal residence in destination countries and avoid being deported.
- sexual exploitation of girls and adolescents has increased in Costa Rica lately, largely due to sexual tourism. A recent study carried out by the University of Costa Rica (UCR) for UNICEF analysed 121 cases identified by programmes aimed at minors at social risk, in which 103 girls and 18 boys participated (Claramunt; pp. 15, 57). Of these children, 62 per cent had North American tourists as clients, 32.2 per cent European tourists, and 16.5 per cent residents from both sources (*ibid.*; p. 94). Furthermore, Covenant House indicated that the procurers manipulating these children are well-organized, and use the Internet as their medium for information and marketing. They also turn to child marriages with Costa Rican men in order to avoid legal difficulties. There is even a case of a man who has been married to and divorced from seven to eight different girls. No data is available according to national and immigrant populations.

Due to the clandestine nature of child prostitution, it is difficult to estimate the number of affected boys and girls, and if international trafficking in children does indeed take place. However, in the aforementioned UNICEF–UCR study, the 121 cases represent the most visible part of the phenomenon. NGOs and other institutions working in the field are assisting these 121 children. Other locations for sexual exploitation, linked to

clandestine brothels, tourist centres all over the country, and the Internet and telephone networks, are known to exist and it is possible to infer that several hundred children and adolescents may be affected.

Situation of female migrant labourers

Given the magnitude of Nicaraguan immigration, available data about the characteristics of the migrant population in Costa Rica refers primarily to those coming from that country. The main economic activities of Nicaraguan migrant labour are segmented by gender. Women basically work in non-skilled personal service activities, while men are employed in construction and agricultural activities.

According to occupational group (see table 6), 62.2 per cent of the Nicaraguan women are employed in service occupations, double the percentage of Costa Ricans (30.2 per cent). In the same sense, there is but a scant immigration of technical and professional workers (0.8 per cent), while this group is notable among Costa Ricans (16.8 per cent). These are followed in order of importance by industrial occupations, 14.3 per cent, and merchants and sales people, with 12.3 per cent.

Table 6: Employed population by occupational group, according to nationality and gender, Costa Rica, 1999

Occupational group	Males		Females	
	Nicaraguan	Costa Rican	Nicaraguan	Costa Rican
Total	100.0	100.0	100.0	100.0
Professional and technical	2.0	8.8	0.8	16.8
Directors and managers	1.6	4.8	0.8	4.5
Administrative employees	0.9	5.2	3.9	13.4
Sales clerks and merchants	8.6	12.0	12.3	16.6
Farmers	34.3	25.7	3.2	3.0
Transportation workers	2.6	6.9	0.0	0.1
Industrial production	38.2	23.7	14.3	12.9
Freight handling and storage	3.5	3.7	2.5	2.2
Service occupations	8.0	9.0	62.2	30.2
Not reported	0.3	0.3	0.0	0.3

Source: Based on INEC, Household Survey and Tabulations on migrants, 1999.

An analysis of data available from the 1999 Household Survey (see table 7) shows that Nicaraguan women have the lowest income in Costa Rica.

- **Income differentials between nationalities are higher for women than for men.** Female Nicaraguans have an income that represents 66 per cent of female Costa Ricans' income, while male Nicaraguans have an income that represents 72 per cent of male Costa Ricans' income (see table 7, indicator 1). This difference appears in part due to the Nicaraguan occupational structure focus on non-skilled occupations.
- **Male-female income differentials are more prominent among Nicaraguans than Costa Ricans.** Female Nicaraguans have incomes that represent 70 per cent of male

Nicaraguans' incomes. In contrast, female Costa Ricans have an income equivalent to 77 per cent of male Costa Ricans (see table 7, indicators 2 and 3). This is also due to differences in occupational structure, since female Costa Ricans are present to a greater extent in administrative and professional occupations.

- **The greatest differentials in income levels occur between Nicaraguan women and Costa Rican men.** On the average, female Nicaraguans obtain half of the income earned by male Costa Ricans, and this difference is maintained across various occupational groups (see table 7, indicator 4).

Table 7: Average income of the employed population in its principal occupation, by nationality and gender, according to occupation groups (in thousands of colones), 1999

Occupational group	Men			Women			Difference between Nicaraguan women and Nicaraguan men ²	Difference between Costa Rican women and Costa Rican men ³	Difference between Nicaraguan women and Costa Rican men ⁴
	Nicaraguan	Costa Rican	Difference ¹	Nicaraguan	Costa Rican	Difference ¹			
			per cent			per cent	per cent	per cent	per cent
Total	72.1	100.3	72	50.7	77.3	66	70	77	51
Professionals and technicians	219.8	212.0	104	80.0	157.4	51	36	74	38
Directors and managers	242.3	240.6	101	90.8	187.8	48	37	78	38
Administrative employees	88.8	109.3	81	67.5	90.5	75	76	83	62
Sales clerks and merchants	61.2	108.1	57	62.8	63.9	98	103	59	58
Farmers	56.7	54.9	103	32.6	35.7	91	57	65	59
Transportation workers			79	0.0	70.7	0	0	64	0
Industrial production			85	58.9	51.7	114	79	59	67
Service occupations			98	46.2	42.3	109	56	51	55

¹ Nicaraguan income as a percentage of Costa Rican income.

² Female Nicaraguans' income as a percentage of male Nicaraguans' income.

³ Female Costa Ricans' income as a percentage of male Costa Ricans' income.

⁴ Female Nicaraguans' income as a percentage of male Costa Ricans' income.

Source: Pisoni (2000): chart A11, annex A; p. 38.

On the other hand, the main occupation of female Nicaraguan migrants puts them at risk of suffering from greater levels of discrimination, both because of the type of occupation (household service is one of the least protected activities in terms of labour rights, i.e., work schedule, social security, information about rights, access to basic services such as health, etc.) and because of situations that affect women more than men, such as sexual harassment. Some comments by Nicaraguan women who work as household maids are included in box 2. These stories are examples of the situations these women face.

Labour experiences and tales of discrimination, as narrated by Nicaraguan women

Guadalupe

"The lady sent for me and hired me for a salary of ₡ 20.000 colones (IS IT COLONS OR COLONES?) to do everything around the house and to bathe, feed, and care for her husband, who had suffered a stroke and was almost totally crazy... My bed was just a mattress placed in the middle of the living room (...)

Five days later I started to work in the house of (...) a 35-year old single mother of two children: a 14-year-old boy and a 7-year-old girl. The job was not so tiring, but the woman's and the girl's personalities were terrible. The children did not like me just because I am a Nicaraguan and, on top of that, black. I worked there seven months with a ₡25 thousand salary but I quit since I was hoping to find a better opportunity".

Alba Azucena

"...the lady (...) paid me 30,000 colons at that time. I was like Cinderella. Nobody even talked to me (...), but what I did understand is that everybody felt superior to me. After that, I worked for a couple of Italian business people. I was paid 300 dollars per month, and I worked from 8:30 to 3 pm. Thank God I did well at the time of the interview, because that was good money. The recommendations were to take special care of the babies, Domingo and Heta, the cats, and Bima (a stray dog from Costa Rica). I was over-confident and trusted Mr. (...), but one day I fainted and I had to tell the man that I was pregnant. A few days later when the Italians came from the beach they gave me a talking to. I remember they almost beat me, I was humiliated and they gave me five days to abandon the place where they lived, the residential zone Los Balcones de Escazú...".

Lisette

"...I started to work in some cabins where tourists stayed. They didn't give me my rights at that place either, and, above all, my wages didn't have anything to do with the job. As you can imagine, not only did I have to take care of the house, but I also had to work in the cabins. But the worst came when I was subjected to constant sexual harassment from the owner and some other people, especially because there were many tourists there... I wasn't feeling well, so I talked to the lady, Missus (...) and what she did was throw me out. She even took my belongings and left them outside the house. I had no place to go and I felt like the most unfortunate woman on Earth, in a country that wasn't mine, without money and family. So I went to La Merced Park and spent the night there, like so many other migrant men and women who have no shelter...".

Aleyda

"...I worked from 5 am to 8 pm. I had Saturdays and Sundays off... I had to walk all day long without having time to rest, walking all around the house to do everything. There were two children, 10 and 12 years old, and they made such terrible messes. I went to bed with terrible back pains and very tired, even so I worked for a year and a half... When I left for Nicaragua in January, I asked my employer for my Christmas bonus, and he gave me only 40 per cent. He stole my Christmas bonus and my vacation..."

"...Now I have been working here in this house, where there are three people including a 10 year-old girl. This is a very tiring job because I work from 5:30 am to 10 pm without time to rest, since the lady is very demanding with the household chores. Her husband has a company in Nicaragua and when he comes here I can't go to bed until midnight... Even though I don't have a bad salary, it is kind of regular, I only make 50,000 colones, but they are good with me. They give me good social treatment. They even brought my little son in December by plane; they paid for the ticket in order for him to spend his vacation with me. They liked him a lot and gave him his school supplies (...) She gives me paid vacation time and a Christmas bonus."

* Some spelling and composition or style changes were made with respect to the original narrations by the Nicaraguans.

Source: Sandoval, Carlos (compiler). *How Do I Feel in Costa Rica? Nicaraguan Autobiographies*. University of Costa Rica: Institute of Social Research, Document Series, 2000.

When we consider the different components of labour force under-utilization (see table 8), it is clear that female Nicaraguan labour migrants are at a disadvantage when they enter the labour market. As a matter of fact, female Nicaraguan unemployment is even higher than the unemployment rate of Nicaraguan males and Costa Rican males and females, at 12.3 per cent. However, when invisible underemployment is examined, the tables are turned and it is men who face greater problems. The rate climbs to 17.7 per cent, a product of earning wages below the legally established minimum wage. The total labour force under-utilization rate for female Nicaraguans is 34.7 per cent, in contrast to 26.9 per cent for Costa Rican women, and 27.3 per cent for Costa Rican men.

Table 8: Labour force under-utilization rates, by nationality, according to gender, 1999

Rates	Total	Costa Ricans	Nicaraguans	Other migrants
Both genders				
Open unemployment	6.0	5.9	8.2	4.1
Visible under-employment	11.0	10.9	13.0	8.7
Invisible under-employment	10.4	10.2	14.7	5.6
Total under-utilization	27.4	27.0	35.9	18.4
Men				
Open unemployment	4.9	4.9	5.9	3.6
Visible under-employment	10.6	10.5	13.2	9.5
Invisible under-employment	11.9	11.6	17.7	6.5
Total under-utilization	27.5	27.1	36.8	19.6
Women				
Open unemployment	8.3	8.0	12.3	4.9
Visible under-employment	11.7	11.7	12.7	8.8
Invisible under-employment	7.3	7.2	9.8	4.0
Total under-utilization	27.3	26.9	34.7	17.7

Source: Pisoni (2000); chart A8; p. 35.

Needs and concerns of female migrant labourers

A recent study carried out by GESO for the IOM (García and Gomáriz, GESO, 2000) identifies the main problems faced by migrant women. These problems arise from those experienced by the migrant population in general, but with some specific characteristics. The main problems of migrant women relate to:

- problems with information on the magnitude and characteristics of this migrant group;
- problems with policies and institutions related to migrant populations;
- problems with the legal context;
- problems with service access;
- problems with the work environment;
- human rights;
- cultural problems.

Main problems related to the work environment faced by female migrants in the region (Puebla Process)

According to the GESO study for the IOM, the main labour-related problems faced by women in the region are the following:

1. Gender becomes a risk factor for labour market insertion and progress of migrant women. Sources and bibliography consulted indicate that most migrant women earn their incomes from low-skill jobs or occupations characterized by low wages and traditionally domestic tasks (cooking, ironing, washing, sewing, childcare), in both their country of origin and destination. Usually, their job opportunities are characterised by precarious conditions and disrespect for their labour rights, in the informal sector of economy (low wages, long working hours, unhealthy and dangerous conditions, sexual harassment, and psychological, social, and physical aggression). As the aforementioned conditions are prejudicial for women due to gender issues, when they enter the labour market, these conditions make employment and labour problems even more apparent for migrant women. Migrant women have no access to information and protection allowing them to complain or denounce these situations and exercise their right to defence, so they keep working out of the fear of losing their jobs or making their situation.
2. Employment problems and poverty in the country of origin are the main factors leading women and mothers in the region to migrate to another country as a strategic –and not merely circumstantial– outlet to offer their children better living conditions in their country of origin or destination.
3. The deterioration in living conditions in the countries of the region is, perhaps, the main reason why young women regard immigration as a strategy for survival, where prostitution (...) is held as a concrete alternative for improving their living conditions and those of their relatives. However, these women live under irregular status in the receiving countries, facing problems such as exploitation, violence, deception, deportation and violation of their rights.

Source: García and Gomáriz — GESO. "Migrant Women, Boys and Girls: Current Situation and Challenges for the Region." In: IOM. *Migrant Women, Boys and Girls. Proceedings of the Seminar held in El Salvador, 24–25 February 2000, in the context of the Puebla Process.* IOM, 2000.

The main concerns and needs of female migrant labourers can be identified through the interviews and focus groups carried out for this study, as well as the personal histories and analyses contained in different written documents in Costa Rica. Here follows a summary by groups of female labourers.

Paid household workers

As mentioned above, one of the main activities of female Nicaraguan workers is to provide household services, which constitutes a way for women with little educational training and few opportunities to occupy other activities, to enter the labour market.

In Costa Rica, paid household maid services represent 13 per cent of the employed female population and 18 per cent of wage-earning women. The average income earned by this group represents 36 per cent of the average income of all women nationally, 47 per cent with respect to women working in industrial occupations, and 74 per cent of the income of women employed in personal service activities (Morales, Castro; pp. 92–95). With regard to Nicaraguan women, 37 per cent of employed female Nicaraguans are household maids, while only 14 per cent of the Costa Rican women are in this occupational category (Pisoni, 2000, p. 39).

Domestic service is looked down upon socially and is economically devalued. It also has gender-specific characteristics, which include the persistence of a series of subservient elements: unscheduled availability at all times, the sacrifice and abnegation typical of traditional female family roles, and the relationships of power.

In the latter sense, that of the relationships of power, this is a labour relation that shows a very particular gender situation: most of the employers are women, who practice discrimination against other women. The only public effort made to deal with this situation took place in 1997, when the National Mechanism for Women's Promotion (*Mecanismo Nacional de Promoción de las Mujeres*) (at that time, National Centre for Family and

Women's Development, which became the National Institute for Women in 1998) organized a forum entitled "The Employment Situation of Household Workers." At that time a debate coalesced around the rights and duties of household maids. Notable tension is reported between national and foreign workers.

As migrants, often illegal, household maids are prone to several unfavourable situations that violate their rights as workers. Migrants, especially those who are undocumented, enjoy scant protection against such problems as low wages, long working hours, ignorance of their rights and thesexual abuse that both Costa Rican and alien females experience.. Without Social Security insurance, medical attention is limited to emergencies. Often completely ignorant of their rights, they are more likely to be at risk of abuse (for example, not given the opportunity to enjoy holidays or time-off, or having their identification documents taken away from them)¹⁰.

Their lack of documentation, ignorance of their rights, and low educational levels are all barriers to overcoming their difficult condition. In addition, many face deteriorating health g because they (as well as legal migrants) maintain a sexual and reproductive behaviour similar to that in their country of origin, in a cultural setting where having a child is "needed" to hold a man.

With regard to the health system, it is important to point out that in Costa Rica's Social Security Fund (CCSS) workers share the payment of the quotas with their employers. This system gives them access to outpatient, emergency, and other specialized services. However, in the case of undocumented female workers or those who have their legal documents but are not covered by the CCSS, this access is restricted. Even though they may be assisted in case of emergencies for humanitarian reasons, there is no outpatient follow-up by medical or specialized services. While a birth may be assisted in hospital centres, but four out of every 10 pregnant women receive no prenatal or postnatal attention (see box 10 below).

In terms of the regulatory framework (see chapter 1), Costa Rican legislation discriminates against household maids, since their work shift is set at 12 hours a day (instead of eight, the traditional norm) with a workweek of six and one-half days (they only have half a day off) (Labour Code, Article 104). Other rights, such as holidays and annual vacations, are stipulated in this legislation. In this regard, as will be dealt with more completely in the following chapter, several women's organizations, led by Household Workers Association (ASTRADOMES), submitted a proposal to modify these discriminatory aspects in the law. However, their debate has caused much controversy and has not found a lot of support, especially among female members of Congress, who reject a cutback in the work shift and payment of overtime after the usual eight-hour day. They argue that proposed changes would affect labour force participation by other women, that is, the employers of these domestic workers, who are now able to work outside the household thanks to their domestic help.

¹⁰ A partial study that is not concluded and is still unavailable, but from which some data have been taken (Morales; Castro; Menjívar/CMF), comes from a series of interviews with immigrant and Costa Rican household maids conducted in 1997 by ASTRADOMES at the request of a foreign organization. This reports that even when most of the interviewees had knowledge about some of their basic labour rights, they pointed out that their employers did not respect all their rights: 78.1 per cent paid the Christmas bonus, 69.6 per cent paid their vacations, 37.5 per cent recognized their right to severance pay on dismissal, 41.8 per cent paid Social Security quotas, 54.2 per cent paid at least the minimum wage, and 52.8 per cent paid legal holidays. However, it is worth noting that there are methodological problems with the sample utilized and the datum on insured workers contrasts with the 15 per cent of household workers that are directly insured (indirect or family-insured workers constitute another important proportion), according to results from the Household Survey.

The following are the main problems and situations identified in the focus groups held with household maids:

- **documentation:** Labour rights recognition is seriously affected in instances where the workers are undocumented, due to the fact that their employers take advantage of this situation and force them to work more hours and pay them lower wages. Many workers legalized their migration status during the migration amnesty conducted by the Costa Rican Government at the end of 1998 (valid from February through June 1999). For this reason, they consider that they are more secure to move around Costa Rica without facing the risk of being deported
- some workers come as tourists and stay on in the country as illegal migrants. They have difficulties making their employers get them a working permit, since occasionally they do not want to pay the fee this permit requires
- **labour rights:** Recognition of their labour rights is very limited even when they possess their migration documents. They continue to have problems in terms of the length of their work day and an excess workload.
 - **work shift:** Household maids' working hours are generally very long. They point out that they usually have to get up at 5a.m. (they live in their employer's house) and work until 8 or 10 p.m. They consider that the long workday is one of their principal problems
 - **overtime:** Overtime work is not recognized, except those hours for parties or receptions in the homes of members of the diplomatic corps
 - **holidays:** According to labour legislation, holidays must be paid at a higher wage rate; frequently, however, this rule is not respected
 - **Christmas bonus:** According to Costa Rican labour legislation, Christmas bonuses must be paid in December; often, however, they are not paid or workers are sometimes paid only a part of it.
- **discriminatory treatment:** There are several situations in which discriminatory treatment occurs. Telephone or personal communication with relatives and acquaintances is restricted. Food is sometimes of an inferior quality than that eaten by the employer's family members. Also, maids are not provided with personal hygiene items and must purchase them with their own money
- **access to services:**
 - **ministry of Labour:** Some of the workers have turned to the Ministry of Labour in cases of job dismissal, but in some other cases they have not done out of fear or because they think they will not receive their due. In some cases, they abandon their jobs out of ignorance, so they lose their right to severance payments for concepts such as Christmas bonus and vacations. In other instances they have had to seek ASTRADOMES' legal support to get paid when they are dismissed
 - **health services:** Access to health services in the CCSS is limited because, even when their employers insure them, it is difficult for them to get permission to leave their jobs and go to a CCSS Clinic. Besides, employers usually do not pay for temporary job disabilities. There are also cases where, even though Social Security fees are deducted from their wages, their employers do not remit them or report lower pay. Female workers in some cases turn to charity health services administered by religious groups, such as the clinic in the La Carpio urban marginal settlement or the María Auxiliadora Institute (refer to the chapter on private services presented later in the document). There were other instances in

which female workers that were under “family member insurance” preferred to agree with their employers not to insure them, so that their available income would not go down.

Profile of household maids who participated in the focus group, April 2001											
No.	Age	Country	Level of education	Year of arrival in Costa Rica	Number of children	Children in Costa Rica	Children in country of origin	Who takes care of children	Monthly income (colones)	Household authority	
1	19	Nicaragua	Incomplete elementary	1998	1	1	0	Community home	35'000	Father	
2	30	Nicaragua	Incomplete elementary	1995	1	1	0	Mother	50'000	Sister-in-law	
3	41	El Salvador	Incomplete elementary	2001	2	0	2	Sister	65'000	Herself	
4	17	Nicaragua	Incomplete secondary	1999	1	1	0	Brother	35'000	Mother	
5	23	Nicaragua	Incomplete secondary	1999	0	n.a.	n.a.	n.a.	55'000	Herself, mother	
6	44	El Salvador	Incomplete secondary	1978	3	0	3	Mother	70'000	Herself	
7	23	Nicaragua	Incomplete secondary	1995	3	3	0	Pays for care	35'000	Husband	
8	20	Nicaragua	Incomplete elementary	2000	1	0	1	Mother	45'000	Herself	
9	37	Nicaragua	Incomplete secondary	1997	5	0	5	Pays for care	80'000	Herself	
10	52	Guatemala	Incomplete elementary	1990	4	0	5	Mother	125'000	Herself	
11	36	Nicaragua	Incomplete elementary	1998	5	0	5	Relatives	70'000	Husband	
12	35	Nicaragua	Incomplete secondary	1984	4	2	2	Father, mother-in-law	80'000	Herself	
13	26	Nicaragua	Incomplete secondary	1995	0	n.a.	n.a.	n.a.	50'000	Mother	
14	40	Guatemala	Complete secondary	1991	3	0	3	Mother, father	95'000	Father	
15	49	Nicaragua	Incomplete secondary	1997	1	0	1	n.a.	70'000	Herself	

* Kinship according to 37th interviewed worker. Household authority is defined as the person in the family nucleus who brings in most of the family income and makes family decisions.

Source: Interviews with female migrants.

The recommendations proposed by female workers who participated in this focus group are the following:

- develop information campaigns in order to inform and raise the female workers' awareness of their rights and how to make them effective. They mentioned that only the CCSS has developed an advertising campaign on television (promoting household maids' insurance). Younger female workers and those who arrived in country very recently do not have knowledge of their rights

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- approval of a proposal for a law in the Legislative Assembly. This bill has been promoted by ASTRADOMES and other organizations for several years in order to establish the working shift for maids at nine hours. If they work additional hours, it should be paid as overtime. As has been previously mentioned, some members of the Legislature resist approving this law, mainly those who themselves employ domestic help
 - establish new legislation to regulate the tasks that household workers must accomplish. One of the main problems they face is their extra workload. Frequently, in upper income families, one maid has to look after all the duties in a very large house
 - training on labour rights, in the psychosocial field, and to enhance their self-esteem. For example, some women cited that they have been the objects of mistreatment by the children they look after. This situation diminishes their self-esteem.

Female urban workers in the La Carpio urban marginal settlement

La Carpio is a marginal settlement located on the western side of the capital city, San José. It came into being after a land invasion of a lot owned by the Social Security Fund (CCSS) towards the end of 1993 and the beginning of 1994¹¹. For several years, the community lacked access to basic services, since tap water and electricity were not provided until 1997 (Marín, *et al.*, pp. 32-40). The community is located on a piece of land surrounded by steep hills, which gives this location the appearance of a ghetto. In 1998, according to a study carried out by Ministry of Housing and Urbanism, 91 per cent of the houses in the township were huts in poor condition (*ibid.*; p. 35).

La Carpio is a place where migrants settle and family groups are reunited: 25 per cent of the family members have been born in Costa Rica and 38 per cent of the population is less than twelve years-old (*ibid.*; p. 59). Females predominate (51.3 per cent), and 58 per cent of families are Nicaraguan.

Most of the women who participated in the focus group carried out for this study work as household maids. Additionally, women with micro-enterprise activities (small grocery store management, food sales, and shoe repair; in the latter case in partnership with her children) and a female worker from a draw-back (???) textile industry plant also participated in the group. An interesting aspect is the fact that women in this community establish informal information networks about job opportunities.

The main problems and situations identified by this group of female migrant workers are the following:

- in relation to labour experience in household service, some negative and positive experiences were revealed in terms of treatment received from employers. The experiences were, however, generally negative. The most dramatic situation mentioned was the dismissal of a household maid, after two years of labour, due to her pregnancy

¹¹ This invasion was initiated by a group of 25 Nicaraguan families led by two Costa Rican citizens. Later, they were joined by hundreds of families, to the point that 2'404 families were involved in December 1997 (Marín, *et al.*, p. 48).

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- similar to the previous focus group with household maids, some cases of discrimination were mentioned in terms of food supply. Instances of verbal aggression were also pointed out
 - the textile enterprise (a t-shirt manufacture) worker expressed her satisfaction with her current job, in which she feels her labour rights are properly respected
 - those reporting micro-enterprise experiences sell to their own community. This activity generates income or complements their spouses' income. These women make great sacrifices, but are, at least, independent of problems with employers
 - in terms of awareness of their rights, the group in general points out that the Lutheran Church has done excellent job- training in this aspect. For health services, the community has a private clinic run by a religious association, where people have access to medical attention at a minimal charge (they have to pay a 500 colones (US\$1.50) fee per consultation). In this way, use of the CCSS is restricted to those cases that need hospital care
 - they consider that the migrant amnesty was a measure that favoured their labour and social conditions. Illegality leads to abuse - a point of consensus for the group. It was also agreed that large-scale immigration will continue as long as the economic situation in Nicaragua does not improve significantly. In fact, one woman in the group had migrated after the amnesty and faced difficult economic problems. These problems were being resolved with the support of the Lutheran Church group.

The following are principal recommendations proposed by this group:

- provide compulsory insurance for all female labourers
- regulate domestic service work hours and systematically recognize the payment of overtime
- promote sensitivity campaigns providing better treatment and respect for migrants
- extend the Migration Exception regime in order to offer opportunities to those who immigrated after the decree.

Resolve the legal property situation of the lots and housing in the settlement. This aspect is currently being handled by the Combined Social Assistance Institute (IMAS, *Instituto Mixto de Ayuda Social*).

Profile of female workers who participated in the La Carpio focus group, April 2001									
No.	Age	Level of education	Year of arrival in Costa Rica	Number of children	Children in Costa Rica	Children in Nicaragua	Who takes care of children	Monthly income	Household authority
1	38	Incomplete elementary	1995	3	3	0	Eldest son	44'000	Hersell
2	20	Incomplete secondary	1999	0	n.a.	n.a.	n.a.	30'000	Shared
3	55	Incomplete elementary	1994	4	2	2	n.a.	40'000	Hersell
4	32	Complete secondary	1998	1	1	0	Pays for care	42'000	Hersell
5	43	Incomplete secondary	1996	4	3	1	Elder brother	34'000	Shared
6	33	Complete secondary	1995	1	1	0	Hersell	Not reported	Mate
7	29	Complete elementary	1995	4	4	0	Neighbour	60'000	Husband
8	22	Incomplete elementary	1998	4	4	0	Relatives	Not reported	Shared
9	26	Incomplete elementary	1990	1	0	1	Grand-mother	85'000	Hersell
10	35	None	2000	7	0	7	Sister	45'000	Hersell
11	48	Incomplete elementary	1989	7	7	0	Hersell	30'000	Husband
12	17	Complete elementary	2001	0	n.a.	n.a.	n.a.	No income	Aunt

Source: Interviews with migrant women.

Female workers in agro-industrial enterprises in the northern region

Costa Rica's northern zone has been the site of a number of new economic activities, which are part of the changes in the Costa Rican economic model over the last 15 years. These activities are focused on export- promotion and tourism attraction. This region saw significant expansion in a series of crops destined for export, including tubers, citrus, heart of palm, ornamental plants, fine woods, and bananas, along with the appearance of agro-industrial enterprises and different size packing plants (State of the Nation Project, 1998; p. 251). Tourism associated with the Arenal Volcano and ecological attractions, has experienced a strong expansion. One of every three tourists visiting Costa Rica comes to the Northern Region and tourism revenues are approximately 72 million dollars (*ibid.*; p. 265).

A many of these activities attract migrant workers, the Northern Region, along with the Central and Atlantic Regions, represents one of the regions of the country with large numbers of Nicaraguan migrants. Nicaraguan women in the region work mainly in agro-industrial plants, household maid services, and in tourism, as waitresses, cooks, or housekeeping personnel.

The main results of the interviews carried out in the region are the following:

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- Interview with Marielos Campos, person in charge of the Church's Social Pastoral Activities in La Tigra de San Carlos
 - Nicaraguan migrants mainly work in ornamental plant packing operations for export. She estimates that the migrant population gender distribution in the region is essentially the same between males and females.
 - Legally documented workers are being hired in packing plants. In high-season periods, workers are hired for the full week. In low-season periods, work is reduced to three or four days per week.
 - The Catholic Church's Social Pastoral Activities helped migrants get their residency permits during the period of migration amnesty. The programme continues to support those migrants without documents to legalize their situation. It also provides training on the social doctrine of the Catholic Church and migrants' rights. Migrants are also supported in terms of the celebration of some of their cultural traditions, such as the Nicaraguan celebration of the Immaculate Conception every year on 8 December.

 - Interview with a female Nicaraguan migrant (Esperanza) who works in a plant nursery
 - Esperanza is 50 years old, provides for her family, and has minor children and an adult son who immigrated to San José. She has no schooling, although she knows how to read and write. She receives a weekly wage of 13'500 colones (US\$42), for her work in a company that packs ornamental plants
 - she left Nicaragua in 1992 as an undocumented migrant, because her partner abandoned the family, and she was occasionally able to get work washing clothes. Esperanza came to Costa Rica with a group of acquaintances, but she said nothing about paying a *coyote*. In order to have money for her trip, she sold some chickens and pigs, and when she changed the money in San Carlos (a Nicaraguan municipality located on the Costa Rican border), it was only 6'000 colones (the equivalent of US\$44 at the exchange rate in 1992)
 - she survived for a month by washing clothes for a family, in return for food for herself and her children. She moved to the municipality of Naranjo to work in the coffee harvest. Then she went back to the Northern Region, worked two years as a field hand in a cassava (*yuca*) plantation and then started working for a company that packs ornamental plants
 - when she came to the Northern Region she received help from the Catholic Church's Office for Social Pastoral Activities, consisting of clothes for her children, food, household utensils, and a house that had been abandoned
 - she has access to Social Security and insurance for occupational hazards from the National Insurance Institute (INS) in her current job at the packing plant. She has to complement her earnings with housekeeping services for the same firm, for that job she receives 1'000 colones a week (approximately US\$3)
 - she is currently working four days a week. Although she sometimes has to work until 7 and 8 p.m., the company pays her no overtime, since it considers that overtime has to be paid only when employees work more than 48 hours per week
 - she legalized her status in the country during the period of migration amnesty. Since she was not able to travel to Ciudad Quesada to carry out the formal procedures, she had to pay a lawyer twice: 12'000 colones (in instalments) and 15'000 colones at once, for which she had to raffle a pig that was given to her as a gift

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- this migrant says she is unaware of her labour rights and how to make them effective or present complaints. She knows a little about the Ministry of Labour, from information given to her by others
 - she is part of a religious organization and participates in its community activities.

The main recommendations given by both women were:

- the second interviewee pointed out only that she would recommend that her compatriots not immigrate to Costa Rica, since there are not as many job opportunities as there were when she first came to the country
- she points out that the most important situation for her is to have a job and a place to live. She has filed petitions to receive an educational bond from the Government, as she has economic limitations for sending her children to school (funds to buy clothes, shoes, and school supplies)
- she says that it is very important to have support from institutions like the Office of Social Pastoral Activities, which was the first organization in Costa Rica that helped her.

Women affected by trafficking and sexual exploitation

As indicated before, a focus group with representatives from different NGOs involved in support and assistance for women affected by trafficking and sexual exploitation was carried out. The following recommendations arise from this activity:

- continue efforts to identify and denounce female trafficking networks. Covenant House (*Casa Alianza*) is currently doing research on this situation, which was planned for August 2001. (UNAVAILABLE??) However, this study deals with traffic from Costa Rica as a source country, and since this country also receives women from the Dominican Republic, Colombia, and Panama among others, related to sexual tourism increases in Costa Rica, other studies on the topic of trafficking of women for sexual exploitation are necessary
- promote research to identify the magnitude of the sexual exploitation of children and adolescents in Costa Rica, as well as upgrade public and private mechanisms to support and assist victims, thus preventing these individuals from again becoming victims
- development of public and private initiatives to discourage sexual tourism
- approval of an integral legislation that penalizes trafficking in persons
- passage of a proposal for a law already being debated in the legislature, which has run into obstacles for its approval and which would allow wire taps in cases of sexual exploitation of minors
- make legal changes in judicial process for evidence on the existence of aggravated procuring, since current procedures have a series of loopholes that make it more difficult to convict those procuring minors for sexual exploitation¹².
- strengthen programmes for support and assistance of adult female sexual workers currently provided by several private institutions.

¹² There is a “Law against Commercial Sexual Exploitation of Minors” in Costa Rica (No. 7899, *La Gaceta Official Journal*, No. 159, 17 August 1999). This law penalizes any type of paid sexual relations with minors, aggravated procuring when the person is a minor, and trafficking in persons, among other aspects.

Law against commercial sexual exploitation of minors

Sole article — Articles 156, 159, 160, 161, 162, 167, 168, 169, 170, 172, 173 and 174 of the Penal Code of the Republic of Costa Rica, Law No. 4573, 4 May 4 1970 are hereby reformed. The texts shall read as follows (only the articles related to commercial sexual exploitation are included here):

Paid sexual relations with minors

Article 160.- Anyone who pays a minor of either gender, or promises to pay or give him/her in return something of an economic or any other nature in order to perform sexual or erotic acts, will be sanctioned:

- With imprisonment from four to ten years if the offended person is less than twelve years old.
- With imprisonment from three to eight years if the offended person is older than twelve years old, but less than fifteen years old.
- With imprisonment from two to six years if the offended person is older than fifteen years old, but less than eighteen years old.

Procuring

Article 169 — Anyone who promotes prostitution of persons of either gender, makes them exercise prostitution, retains them in that endeavour, or recruits them for such purposes, will be sanctioned with imprisonment from two to five years. This same penalty will apply to anyone who makes a person sexually subservient to him/her.

Aggravated procuring

Article 170.- Imprisonment from four to ten years, whenever one of the actions foreseen in the previous article occurs, and any of the following circumstances takes place:

- If the victim is less than eighteen years old.
- If there is use of deceit, abuse of authority, a situation of need on the part of the victim, or any means of intimidation and coercion.
- If the person who performs the action is a parent, descendant, sibling by blood or affinity, spouse, or a person who maintains an analogous relationship of cohabitation, tutor or mentor, guardian or protector.
- If the person who performs the action takes advantage of the relationship of confidence with the victim or family, even when there are no family ties.

Pimping

Article 171 — Anyone who maintains him or herself on the basis of coercion, even though it be in a partial manner, using a person who performs prostitution exploiting the earnings coming from such activity, will be sanctioned with a prison sentence of two to eight years. Said sentence will be:

- Imprisonment from four to ten years if the offended person is less than twelve years old.
- Imprisonment from three to nine years if the offended person is more than twelve, but less than eighteen years old.

Trafficking in persons

Article 172 — Anyone who promotes, facilitates or favours the entrance or departure from the country of persons of either gender, for them to perform prostitution or to be kept in labour or sexual servitude, will be sanctioned with a prison sentence of three to six years. The sentence will be increased to four to ten years if any of the circumstances mentioned for aggravated prostitution are present.

Manufacture or production of child pornography

Article 173 — Anyone making or producing pornographic material by using persons under legal age or their image, will be sanctioned with a prison sentence of three to eight years.

Anyone who markets, transports, or brings materials of that type into the country for commercial purposes will be sanctioned with a prison sentence of one to four years.

Diffusion of pornography

Article 174 — Anyone who markets, distributes or exhibits pornographic material to persons under legal age or incompetent, will be sanctioned with a prison sentence of one to four years.

Source: Law No. 7899, published in *La Gaceta* Official Journal No. 159, 17 August 1999.

I. Legislative framework

1.1. Immigration rules and regulations

The most important source controlling and regulating migration movements in Costa Rica is the General Law on Migration and Alien Status No. 7033 promulgated on 8 April 1986. This law consists of 11 titles and 157 articles, and it establishes the major guidelines to be followed in terms of migration.

Concerning entrance and residence in the country, foreign citizens are classified as residents and non-residents. The former category is subdivided into permanent and temporary residents (see box 7). According to these categories and subcategories, procedures, requirements, and conditions for entry, as well as the duration of stay are stipulated by law (Decree No. 19010–G Regulations of the General Law on Migration and Alien Status, 11 May 1989).

Definitions adopted according to classification of entrance and duration of stay for foreign citizens

ARTICLE 35 — A **permanent resident** is a foreign citizen that comes to reside in the country on a permanent basis.

Permanent residents may enter as:

- Immigrants, who may be spontaneous, invited, or assisted persons.
- Annuitants or retirees.
- Investors.
- Relatives of Costa Rican citizens: spouses, children, parents and single siblings.

ARTICLE 36 — A **temporary resident** is a foreigner who has no intention of residing in the country on a permanent basis, but comes to Costa Rica under one of the following subcategories:

- Professional scientists, technicians, or specialised personnel hired by enterprises or institutions that are established or carry out activities in the country in order to work in their special fields of endeavour.
- Entrepreneurs, businesspersons, and directors of national and international enterprises.
- Students.
- Members of Religious Congregations who come to dedicate themselves as teachers or to activities related to their worship.
- Refugees and those seeking asylum.
- Spouses and minor children of those mentioned in the previous subcategories.
- Those who have been authorized by the General Directorate, even when they do not belong to any of the previous subcategories.
- Owners and crew of cruise or recreation vessels. The duration of stay of these temporary migrants as well as their vessels in tourist marinas will be regulated by the respective legal norms and rules. Article 24 of the Law for Concession and Operation of Tourist Marinas, Law No. 7744, of December 19, 1997, added this sub-section.

ARTICLE 37 — Foreigners who enter the country as **non-residents** may be admitted under one of the following subcategories:

- Tourists.
- Persons of special relevance in scientific, professional, public, cultural, economic or political arenas, who were invited by any of the Branches of the State or by public or private institutions according to their area of expertise.
- Travelling salespersons and commercial representatives, as long as they are the legally recognised agents of their principals in Costa Rica, according to Article 366 of the Commercial Code.
- Artists, sportspersons and public entertainers.
- Passengers in transit.
- Persons bearing border-crossing permits.
- Crewmembers of international means of transportation.
- Migrant workers.

Source: Legislative Assembly. Law No. 7033. Department of Parliamentary Services. Regulatory Actualisation Unit. This law can also be found on the Internet: <http://www.oim.web.cl/costaric/>

The Migration Law establishes two possibilities for regularising an irregular migration status.

Article 42 — Illegal residents may also apply for a temporary residence permit when compelled to normalise their migration status, or, in those cases that the General Directorate determines cause, by means of a justified resolution.

Article 43 — When circumstances so merit, the General Directorate, with prior authorization from the Executive Branch, may initiate a regime of exception (Migration Amnesty) for a specific period to promote and facilitate the settlement of those aliens living illegally in the country.

The following laws and decrees complement the body of legislation on migration issues:

- Law No. 1155 Law on Naturalizations and Options (22 April 1950)
- Law No. 4812 Pensioner and Annuitant Residents (15 July 1971)
- Decree No. 16197 Regulations of the Law on Pensioner and Annuitant Residents (19 April 1985)
- Decree No. 16479–P Creation of the National Refugee Council (21 August 1985)
- Decree No. 16633–P–TSS–G Granting of Labour Permits to Refugees (10 October 1985)
- Decree No. 17041–U Regulation of Tax Franchises for Costa Ricans Residing Abroad upon Their Permanent Return (21 May 1986).

1.2. Conventions ratified with regard to migrant labourers

Costa Rica has signed seven of eight Fundamental Conventions of the International Labour Organization (see box 8). Nevertheless, it has not signed the two conventions on migrant labourers: Convention No. 97 of 1949, and Convention No. 143 of 1975 regarding its complementary dispositions.

Status with regard to the fundamental conventions of the ILO, Costa Rica

Convention No.	Subject	Ratification date
Forced Labour Convention, 1930 (No. 29)	Abolition of forced labour	2 June 1960
Abolition of Forced Labour Convention, 1957 (No. 105)	Abolition of forced labour	4 May 1959
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	Freedom of association	2 June 1960
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	Freedom of association	2 June 1960
Plantations Convention, 1958 (No. 110)	Equality	2 June 1960
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	Equality	1 March 1962
Seafarers' Identity Documents Convention, 1958 (No. 108)	Eradication of child labour	11 June 1986
Worst Forms of Child Labour Convention, 1999 (No. 182)	Eradication of child labour	Pending

Source: ILO website, specifically the following pages:
<http://webfusion.ilo.org/public/db/standards/norms/appl/appl-ratif8conv.cfm?Lang=ENG> and
<http://ilolex.ilo.ch:1567/public/Spanish/docs/declworlds.htm>

1.3. Legislation Related to the Employment of Migrant Labour

Global panorama

The Labour Code constitutes the legal body by which labour relations in Costa Rica are regulated, including administrative sanctions when not obeyed. There is no gender-specific legislation in terms of female migrant labour employment.

Regarding the volume of the migrant labour force, Article 13 of the Labour Code previously included a restriction that was eliminated in 1999 (see next paragraph). This restriction expressed that “No employer may employ for his or her firm, regardless of its type, a work force consisting of less than ninety percent Costa Rican manpower, nor may they pay the Costa Ricans less than eighty-five percent of the annual total payroll”.

However, a 1999 ruling by the Constitutional Chambers determined that the restriction was inadmissible. The appeal on the grounds of unconstitutionality was presented by Magda González Salas, representing Hacienda Mayju Limitada, an enterprise that hires Nicaraguan manpower. The majority vote of the Constitutional Chambers points out: “The law in question does not consist of entitlement in favour of Costa Rican workers, in equal conditions, in the permissive sense of the final paragraph of Article 68 of the Constitution. What it actually does is to subjugate hiring of foreign workers to variable quotas or magnitudes, and it does not consider objective criteria such as training, aptitude, or skills for their job positions — reasonable and legitimate criteria that do not annul or affect their right to equal opportunities — but rather considers exclusively the datum of nationality. Based on the foregoing rationale, the Court concludes that this legal option is unconstitutional. However, it does not gauge that this conclusion will invalidate the application of the current regime and, specifically, that it will alter the diversity of migration categories and subcategories stipulated in the General Law on Migration and Alien Status. On the contrary, this regime is required” (Sala Constitucional. Dossier 98–002858–007–CO. Decision 00616–99).

Gender equity

Within the framework of different international commitments, the Costa Rican Government has undertaken measures including the review and promulgation of legislation to expand the rights of women of all ages and conditions, thereby improving their social status and situation.

The Political Constitution of Costa Rica (1949) establishes that no person can be discriminated against in conditions that threaten human dignity (Art. 33, reformed in 1968), and that no one may be submitted to cruel or degrading treatment (Art. 40). The Constitution also establishes that the State will offer the greatest welfare to all Costa Rican inhabitants (Art. 50), especially mothers and their children (Arts. 51 and 55), with particular reference to labour and educational aspects. It is important to point out that two articles from the Political Constitution have recently been reformed: Article 20, which instead of saying, "Every man is free in the Republic...", it says, "Every person is free in the Republic...", and Article 33 mentioned above, which instead of stating that "Every man is equal before the law and there shall be no discrimination against human dignity", now states: "Every person is equal before law ..." (Constitutional Reform, No. 7880, 13 May 1999).

Legislative developments to protect women's rights and promote gender equality have had two distinct periods. The first, between 1949 and 1993, was the period in which the Political Constitution was promulgated. The second, between 1994 and 1999, was the period in which most laws, reforms and decrees in this area have been promoted and approved. Most of this legislation approved between 1994 and 1998 was promoted within the framework of public policies and their respective national plans sponsored by the Administration in power at the time: Plan for Equal Opportunities between Men and Women (PIOMH), National Plan for Assistance and Prevention of Intra-family Violence (PLANOVI), and National Plan for Combating Poverty and its Female Axis.

The main legislation in terms of gender issues has been:

Legislative advances regarding gender issues in Costa Rica, 1984–2001

Theme	Law No.	Year
Conventions and Parent Laws		
— Ratification of the Convention the Elimination of all types of discrimination against women	6968	1984
— Creation of the National Centre for the Development of Women and Family	7026	1986
— Establishment of the Office for Women's protection in the Ministry of Justice and Grace (which became part of the Office of the Ombudsman in 1993)	7142	1990
— Law for the Promotion of social equality for women	7142	1990
— Creation of the National Institute for Women	7801	1998
— Law for the Assistance of women in conditions of poverty	7769	1998
Violence ¹³		
— Ratification of the Inter-American Convention of the prevention, sanction and eradication of violence against women		
— Law against sexual harassment in the workplace and teaching activities		
— Law against domestic violence		
— Code of Criminal procedure		
Childhood and adolescence		
— Law on juvenile criminal justice		
— Code on Childhood and adolescence		
— Law for the general protection of adolescent mothers		
— Law against the sexual exploitation of minors		
Political rights		
— Law declaring Francisca Carrasco Jiménez as national heroine and defender of national liberties		
— Reform of the Electoral Code		
Health		
— Law on the promotion of maternal breastfeeding		
Labour rights		
— Reform of Article 95 of the Labour Code		
— Law establishing the right to paid leave for maternity or child adoption		
Family		
— Law regulating consensual union	7532	1995
— Family Code reform on recognition of children and suspension and recovery of parental custody	7538	1995
— Law on pensions for handicapped citizens with dependents	7636	1996
— Law on alimony and child support	7654	1996
— Reforms to Articles 8, 41 and 98 of the Family Code, and addition of Article 48 <i>bis</i>	7689	1997
— Integral law for elderly persons	7935	1999
— Law on responsible fatherhood	8101	2000

Source: Fundación Género y Sociedad (GESO).

¹³ Currently, the project aimed at reforming articles 124*bis* and 195 of the Penal Code on classification of domestic aggression, dossier 13081, is on the legislative docket. Furthermore, in year 2000 a proposed law

This vast legislative body, which constitutes one of the most advanced in Latin America, is not applied clearly and effectively to immigrant populations in Costa Rica. Two fundamental reasons explain this situation. On the one hand, the fear of the migrants, especially when they do not have their legal documents in order. Migrant populations consider that recurring to the Courts of Justice may be counterproductive. An old juridical tradition persists that compels Costa Ricans and migrants to think that Costa Rican laws only apply to citizens of the country. However, the current legislative orientation, consolidated around the debate about creating and establishing the competencies of the Public Defender, assumes that Costa Rican laws apply to all those residing within its territorial boundaries. In that sense, the protective entity is now known as the Office of the Ombudsman (*Defensoría de los Habitantes*), with powers to protect the rights of any person within the country's territory, whether or not he or she is Costa Rican.

In spite of the new legislative orientation, true access by migrants to the system of justice is still limited. This study has sought information both within the sphere of the system of justice and from the Office of the Ombudsman. Regarding the administration of justice, there are two situations: (a) when the only players are migrants (e.g., a Nicaraguan woman working for a Nicaraguan employer); in this case access to the judicial system seldom originates with the migrants, and (b) when one of the parties is Costa Rican (e.g., a woman married to a Costa Rican man or a woman working for a Costa Rican employer, etc.); in this case, problems are more recurrent in national tribunals.

In terms of the Office of the Ombudsman, the query conducted in this sense provided the following result: in the case of children, there are some antecedents of cases submitted before this institution to protect their rights. The situation is different with respect to women's rights: to date, no cases have been presented before this Office.

Another aspect is migrants' access to Costa Rican public services. For example, the National Institute of Women (INAMU) continues to press for general public services (police, hospitals, etc.) to be available for migrant women in cases of domestic violence. In fact, it is customary for these women to have access to shelters for battered women in the country.

The following laws are of special importance to female migrant workers and women under sexual exploitation in Costa Rica:

- Law Against Sexual Harassment in the Workplace and Teaching Activities
- Law Establishing the Right to Remunerated Leave for Maternity or Child Adoption
- Reform of Article 95 of the Labour Code
- Law on the Promotion of Social Equality for Women
- Creation of the National Institute for Women
- Law for the Assistance of Women in Conditions of Poverty
- Law for the General Protection of Adolescent Mothers
- Law Against the Sexual Exploitation of Minors

and the recently established Law on Responsible Fatherhood.

(No. 13'874) aimed at penalizing violence against elderly women was presented to the Legislative Assembly. This project is inspired by the Government's commitments from the ratification of the Convention of Belém do Pará, recognising the directionality of violence and the need to give women special protection against it. On the other hand, this project is intended to fill the gap existing in penal law, where domestic violence is not typified, neither are penal classifications recognising the manifestations, characteristics and dynamics of violence that primarily affect women.

Related labour legislation

The Law on the Promotion of Women's Social Equality implies introducing reforms to the labour code to establish mechanisms for queries on the form and conditions under which women perform hazardous, unhealthy or difficult tasks. Furthermore, it aims to protect pregnant workers or those who are breastfeeding. It prohibits employers from dismissing pregnant workers or women who are breastfeeding, and establishes sanctions for those who do.

In addition, Law No. 7621 (which reforms Art. 95 of the Labour Code on the system of remuneration for maternal leave) dated 5 September 1996, states that compensation received by pregnant workers during pre- and post-natal periods must be calculated for all labour rights arising from their labour contract (pension deductions, vacations, Christmas bonuses, etc.).

Executive Decree No. 26634-SP of 9 January 1998 is directly related to migrant women, setting a security deposit fee of US\$20 for household maids who apply for legal residence in the country. Prior to that date, every person coming into this country seeking employment had to pay US\$100 (with the exception of those individuals, mainly men, granted a special Government permit to work in Costa Rica, for example, in melon or sugar cane harvests). The Executive of the National Mechanism for the Promotion of Women requested the fee-reduction. At that time it was known as the CMF (Centre for Women and Family), which was then transformed into INAMU. The letter explicitly states the difficult situation faced by women coming to Costa Rica to work as household maids.

The most ambitious labour reform in the past few years has to do with the Law on Worker Protection (No. 7983, 16 February 2000), which arose from the National Forum on Coordination and Collaboration (*Foro de Concertación Nacional*) held in 1998, which restructured the national retirement pension and severance payment system. From the gender equity point of view, this law contemplates the generalization of the non-contributory pension regime, which is financed with resources from the Fund for Social Development and Family Allocations (FODESAF, *Fondo de Desarrollo Social y Asignaciones Familiares*). This pension gives priority to elderly women working as housewives and who are in conditions of poverty and social vulnerability.

Surveillance and control activities to enforce migrant workers' labour rights must face resource limitations, as well as difficulties in articulating and following-up action plans among the institutions that are involved, in this case the Ministry of Labour, the CCSS, the National Insurance Institute (INS, *Instituto Nacional de Seguros*), and the DGME.

Social Security

The Law establishing the Costa Rican Social Security Fund (CCSS) was promulgated in 1941. However, its definite institution would take place after reforms to this law in 1943. Law No. 2738 in 1961 extended its Health and Maternity Regime coverage to the total Costa Rican populace (Miranda, 1997, 134), and set a ten-year lapse for it to reach universality.

Social Security offers two main services: health care services through the Health and Maternity Regime, and retirement pensions under the Disability, Old Age, and Death Regime. The former is financed as follows: workers contribute 5.50 per cent of their wages, employers 9.25 per cent over their employees' wages, and the Government 0.25 per

cent of the wages and salaries of all Costa Rican workers¹⁴. The latter is financed with the following contributions: the employer pays 4.75 per cent over the workers' wages; workers, 2.50 per cent of their wages; and the Government, 0.25 per cent of all workers' wages and salaries¹⁵.

For those who are not in paid jobs, there is the possibility of voluntary affiliation to both insurance systems. Its cost is approximately 13.75 per cent of a reference wage in terms of health insurance, and 7.50 per cent in the pension system. The percentage that corresponds to the Government and the worker are calculated by means of a Legislative Regulation.

Legislation on family matters

In November 1996, the Legislative Assembly approved the new Organic Law No. 7648 for the National Child Protection Board (PANI, *Patronato Nacional de la Infancia*), giving this agency authority over matters relating to childhood, adolescence and family.

After this law was approved, PANI underwent an institutional modernization process, which aimed at establishing an institutional culture coherent with the Doctrine of Integral Childhood Protection. This shift terminated with the approval of the Code on Childhood and Adolescence in 1997, by Law No. 7739.

Code on Childhood and Adolescence

This body of laws was the result of several years of work and efforts by different public, private, and international institutions. The Code establishes a series of rights and obligations for children (boys and girls) and adolescents: fundamental rights and liberties (chapter I), their right to personality (chapter II), right to family life and to receive provisions (chapter III), right to health (chapter IV), right to education (chapter V), and right to culture, recreation and sports (chapter VI).

The Code creates a National Council¹⁶, ascribed to the Executive Branch "as an entity for deliberation, co-operation, and coordination between the Executive Branch, decentralized State institutions, and organizations that represent the community related with this issue" (Art. 170).

According to the Code (Art. 4), "the State is compelled to adopt administrative, budgetary, legislative, and any other measures to guarantee full efficacy of the fundamental rights of minors. In terms of policy formulation and application, access to and

¹⁴ CCSS. Health Insurance Regulations, Article 62 (www.info.ccss.sa.cr/reglamentos/frsesal.htm).

¹⁵ CCSS. Disability, Old Age, and Death Insurance Regulations, Article 33 (www.info.ccss.sa.cr/reglamentos/frrgivm.htm).

¹⁶ This Council consists of: (a) One representative from each of the following Ministries: Public Education; Public Health; Culture, Youth, and Sports; Labour and Social Security; Justice and Grace; Public Security; National Planning and Economic Policy. (b) One representative from each of the following autonomous institutions: Patronato Nacional de la Infancia (National Childhood Protection Board), Instituto Mixto de Ayuda Social, Caja Costarricense de Seguro Social, and Instituto Nacional de Aprendizaje (National Training Institute). (c) A sole representative of the sector constituted by foundations, associations, or other non-Governmental organizations promoting child care and assistance. (d) A sole representative of the sector constituted by foundations, associations, or other non-Governmental organizations that promote and defend children's rights. (e) A sole representative of business associations. (f) A sole representative of labour organizations.

use of public services, the higher interest of these persons must always be taken into account. Every action or omission contrary to this principle constitutes a discriminatory act that violates this population's fundamental rights".

For the purpose of this document, it is important to point out that the Code applies to migrant minors as well. Article 3 stipulates that: "The provisions of this Code will be applied to every minor without distinction, independent of their ethnic background, culture, gender, language, religion, ideology, nationality, or any other condition pertaining to his/her father, mother, tutor, or legal representatives. This group's rights and guarantees are of the public interest, they can be neither renounced nor transferred."

Other social welfare programmes

By law, the programmes financed with FODESAF resources only cover those Costa Rican citizens below the poverty level, according to Article 2, Law No. 5662 on Social Development and Family Allocations. With regard to programmes developed by the Combined Social Assistance Institute (IMAS), approximately 68 per cent of those resources are financed by FODESAF, and the remaining 32 per cent with IMAS' own funds. However, IMAS' statutes define the institution's beneficiaries as the residents of the country below the poverty level, without specifying any nationality. Thus, IMAS may assist those migrants who possess legal documents, by using its own resources.

In terms of Government educational assistance bonds, the Constitutional Chambers determined that although these bonds are financed with FODESAF resources, due to the higher rank of the International Convention on the Rights of Children over the Law, this benefit must also be provided for immigrant children (File 98-007361-007-CO-E, Decision 08857-98). Approximately 10 per cent of the bonds granted in 1999 were given to Nicaraguan children, according to DANEA estimations (Morales, 1999-b; p .75).

The Ministry of Education's scholarship programme, administered by the National Scholarship Fund, does not grant benefits to foreign students because its statutes (Law 7658, 27 February 1997) stipulate that only Costa Ricans may benefit from the programme. In this regard, the Office of the Ombudsman has received complaints from foreign students. This Office then presented an appeal to the Supreme Court against this disposition (Defensoría, *op. cit.*).

No legal limitations in the housing sector legislation impede migrants from having access to housing programmes. Article 6 of the National Housing System Operation Regulations states that "...apart from Costa Rican citizens, aliens whose migration status and labour and family situation show reasonable perspectives for legal and permanent residence in the country, with their own income sources, may also be FUSOVI beneficiaries" (Defensoría; *op. cit.*).

However, no definite public policy exists in terms of popular housing programmes for the migrant population, as the Ministry of Housing recognizes. During its 13 years of existence, the Housing Mortgage Bank (BANHVI, *Banco Hipotecario de la Vivienda*) has granted a total of 1'736 financial subsidies to families whose head of household is a foreign citizen (cited in Defensoría). This number represents 1.2 per cent of the "Family Bonds" for housing granted during that period.

1.4. Legislation on trafficking in persons

Illegal trafficking in persons is not considered a criminal activity under Costa Rican legislation, but trafficking in persons for purposes of sexual exploitation is penalized (refer to the following aspect).

In order to correct this deficiency, the General Directorate of Migration prepared a proposal for a law (File 13,360) that penalizes illegal migrant trafficking by including of Articles 376 and 377 to the current Penal Code. (<http://www.crmsv.org/investigacion/EstudioCR.htm>).

In the year 2000, the Executive Branch presented a more ample initiative to provide the country with a general law concerning migration issues. Article 47 defines trafficking as follows: “Anyone who promotes, facilitates, procures, or achieves the entry or departure of citizens or aliens to or from the country through border crossing sites unauthorised by the Executive Branch by avoiding migration controls or by using fake documents or data, will be penalized with imprisonment of from two to six years. This same penalty will be given to the person who shelters, hides, conceals or provides transportation to aliens who illegally enter or reside in the country, with the purpose of facilitating their entry or departure by illegal means. The established sentence will increase by one third, when civil servants are involved in this matter” (Asamblea Legislativa, Dossier No. 14269).

The Law against Sexual Exploitation of Minors sets the sentence for trafficking in persons for the purpose of sexual exploitation, but there is no sentence regarding trafficking in general. This Law is a reform of Article 172 of the Costa Rican Criminal Code, and it stipulates the following:

Article 172 — Anyone who promotes, facilitates, or favours the entry to or departure from Costa Rica for persons of either gender in order to engage in prostitution or to hold them in sexual or labour servitude, will be penalized with imprisonment for three to six years. This penalty will be extended to four to ten years if any of the circumstances found under aggravated procuring are present¹⁷.

1.5. Law against sexual exploitation of minors

Approved in 1999, the *Law against Sexual Exploitation of Minors* (No. 7899) established the penalty for trafficking in persons for purposes of sexual exploitation, but there is no penalty for trafficking in general. This Law is a reform made to Article 172 of the Costa Rican Penal Code, and it establishes the following with regard to “trade in persons”:

Article 172 — Anyone who promotes, facilitates, or favours the entry to or departure from Costa Rica for persons of either gender in order to engage in prostitution or to hold them in sexual or labour servitude, will be sanctioned with imprisonment for three to six years. This penalty will be extended to four to ten years if any of the circumstances found under aggravated procuring are present¹⁸.

The description of this reform equates the subjects of the felony, by labelling it “trade in persons,” which includes women and boys and girls as well as men as possible victims. Under the reform, three forms of behaviour are defined¹⁹:

¹⁷ Law No. 7899 published in *La Gaceta* Official Newspaper No. 159, 17 August 1999. Taken from the Office of the Ombudsman’s Webpage: http://www.crnecr.net/~defensor/dhr710_1.html

¹⁸ Law No. 7899 published in *La Gaceta* Official Journal No. 159, 17 August 1999. Taken from the Office of the Ombudsman’s Webpage: http://www.crnecr.net/~defensor/dhr710_1.html

¹⁹ Definitions taken from the Spanish Language Dictionary, 21st Edition, 1992 version; cited in INAMU, 1999.

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- (a) to promote (the term should be understood as the beginning or continuation of something, attempting to achieve it, or taking the initiative to attain or achieve something);
 - (b) to facilitate (to make easier or enable the implementation of something or to achieve its purpose), and
 - (c) to favour (help, aid someone, support an attempt, enterprise or opinion; give or do a favour).

A commentary on this law reads as follows (INAMU, 1999): “In terms of the new verb “to favour,” the spectrum of prohibition is expanded, since it points out a hypothesis that is different from “promoting” or “facilitating.” With the new penal wording, all possibilities of participation in the entry to or departure from the country of persons (males and females, adults or minors) to participate or be held in prostitution, or labour or sexual bondage are taken into consideration. Regulation of the entry to and departure of persons from Costa Rica to engage in prostitution is an important but inadequate step, especially since reality goes beyond these crimes. In consequence, prohibition of the two types of bondage must be included, as experience has indicated that sexual and labour servitude are aspects that require penal protection. In the case of labour servitude, it would seem not directly related to sexual violence and sexual exploitation, but since it is part of the Code’s partial reforms, it was kept under this title and, more concretely, within this criminal activity. On the other hand, the new definition (as well as the previous one) covers all immigration and emigration possibilities, as the problem of bringing people to Costa Rica is as serious as making them depart from it to perform these activities. This article also includes circumstances that merit an enhancement of the penalty, considering that they affect the juridical asset herein protected”.

1.6. Female migrant workers’ rights of association

Costa Rica’s Constitution guarantees the freedom of association. Furthermore, Costa Rica has signed international agreements in terms of freedom of labour organisation. However, in practice, labour unionisation has been difficult particularly in terms of firms in the private sector, so that a large percentage of the flow of labour funds comes from public employee organizations. In Costa Rica, the labour unionisation rate²⁰ in the public sector is 50 per cent, while in the private sector it is just 6.2 per cent (Ministerio de Trabajo, 1998–c; p. 12), if only private sector wage earners are taken into consideration²¹ (Morales, Castro; p. 139).

Migrant options to participate in labour associations and organisations depend on the organizational levels of the productive sectors and activities they are involved in. In terms of household services, ASTRADOMES was originally created as a labour union, but it then was changed to an association that is mainly comprised of Nicaraguan household maids who have their legal documents in order.

1.7. Implementation and application

Similar to most Latin American countries, Costa Rica is characterized by its luxuriant legislation, whose application level is far from optimal. We will focus our attention on two

²⁰ Labour union members as a part of all employed workers.

²¹ The calculation excludes labour unions of small and medium agricultural producers.

main aspects of the research conducted: regulations to protect workers and the ability to confront the challenges related to migrant trafficking.

In regard to the first aspect, the Ministry of Labour and Social Security is faced by human and material resource limitations in controlling employers' abuse of migrant workers. In particular, a number of the Ministry's 27 inspection offices around the country lack technical resources and means of transportation to visit work sites (Defensoría, 2000)²². However, one in five of all inquiries received in the Ministry of Labour's central offices comes from Nicaraguans (see next section).

Regarding this situation, the Office of the Ombudsman has proposed that the Ministry of Labour urgently needs to establish mechanisms to follow-up those recommendations arising from its own research (Defensoría, *op. cit.*). Similarly, that "...the issue of the working conditions of migrants is incomplete and restricted to oversight, if labour and employment policies are not established to protect all of the country's inhabitants, with a special component on the issue of migrant workers. Thus, it represents a pending task, and the Ministry must focus particular attention on it." (*loc. cit.*)

A study prepared by the DGME on migrant trafficking in Costa Rica concludes that, "Similar to other offices in the region, Costa Rica's General Directorate of Migration suffers from shortages of materiel and human resources to effectively perform its functions: factors that affect service quality and surveillance efficiency in the border areas. These factors contribute to exposing their officers to different forms of coercion" (<http://www.crmsv.org/investigacion/EstudioCR.htm>).

²² Labour Report 1999–2000 version that appears in the Office of the Ombudsman's website was used (www.cnet.cr/~defensor/if2000.html). Since every chapter is included in a separate hypertext link, page numbers are not cited.

II. Government initiatives to protect female migrant workers and ensure the protection of their rights

Government policies and initiatives regarding migrants in Costa Rica are implemented within the framework of different institutions, some of which are related to several aspects in the guidelines for preparing this study: prevention of exploitation of female migrant workers, provision of assistance, and services available. Thus, a chart has been prepared showing initiatives by institution and labour areas related to migrant attention policies:

Policy or institution	Prevention of exploitation	Protection for female workers	Assistance and services
Migration amnesty	◆		
Permanent forum on migrant population	◆		
Ministry of Labour	◆	◆	
Health sector			◆
National Institute for Women	◆		◆
Ministry of Education/IOM/AID project			◆

2.1. Migration Amnesty

The undocumented status of Nicaraguan migrants places them at risk for exploitation and disrespect for their labour rights by abusive employers.

In December 1998, the Executive Branch of the Costa Rican Government decreed a migration amnesty for a six-month period from 1 February to 31 July 1999²³. This amnesty benefited irregular immigrants from any Central American country, who had entered Costa Rican territory before 9 November 1998²⁴.

This measure was adopted as a result of the commitment accepted by the Costa Rican Government at the Presidential Summit in El Salvador in November 1998, to reduce the social and economic impacts of Hurricane Mitch.

In February 2000, a year after the migration amnesty began, 155'318 persons had requested coverage under the migration amnesty. Of the total, 151'320 were Nicaraguans, i.e., 97.4 per cent²⁵. Men presented 54 per cent of the applications and women submitted 46 per cent. Adult migrants constituted 81.9 per cent of the applications, while 18.1 per cent belonged to minors. By April 27' 2000, a total of 125'633 resolutions had been

²³ There were two previous exemptions, established during the presidential term of R. A. Calderón Fournier by means of Decree No. 19953-G, 27 August 1990 and Decree No. 22830-G, which extended it on 10 February 1994.

²⁴ Executive Decree No. 27457-G-RE published in *La Gaceta* No. 239, 9 December 1998.

²⁵ General Directorate of Migration and Alien Status, Planning Department. Statistical Information: Migration Exception Regime, February 21, 2000.

granted, 95.4 per cent of which were favourable in the case of Nicaraguans, i.e., 119 thousand individuals²⁶.

Prior to 3 February 1999, and according to figures provided by the General Directorate of Migration and Alien Status, a total of 106'241 Nicaraguans had carried out the legal procedures to obtain their residence through normal processing.

If we add to this group the 119 thousand Nicaraguans whose residence request was approved during the amnesty, around 225 thousand Nicaraguans would have obtained their legal documents. This would represent 71 per cent of the estimated 315'000 Nicaraguans in the country. This proportion may be lower if we consider that, according to data from the DGME, there is no way of knowing if there are duplications between these two groups, i.e., how many Nicaraguans under the migration amnesty had requested legal processing by means of the usual mechanisms and their documents had expired, so they proceeded to apply under the new amnesty.

Although representing 51 per cent of the Nicaraguan immigrants, the lower coverage of women (46 per cent) responds to gaps in the process. Although the difference is not large, it shows that women had a 5 per cent lower coverage.

2.2. High-Level Commission on migration policies

Under Executive Decree dated 28 January 2000, the Costa Rican Government established a High-Level Commission or Presidential Advisory Commission on migration issues. The Ministers of Labour, Public Security, Justice, and Foreign Affairs constitute this commission, and it is headed by the Second Vice-President of Costa Rica (Defensoría, 2001)²⁷.

In August 2000, the High-Level Commission convened the Forum on Migrant Populations (see below) in order to prepare a draft document titled "General Guidelines for Formulating Migration Policies". "... The need for counting on international cooperation, given the insufficient resources in the country to adequately assist the current migration situation..." was discussed in the meeting. "In this regard, Government authorities reported that Costa Rica had reactivated its participation in regional procedures such as OCAM and the Puebla Process, as well as the incorporation of migration issues in foreign policy" (Defensoría, 2001).

This document proposes a series of guidelines dealing with the following aspects: reform to the migration administration system, including the institutional framework and General Migration Law; security and migration policies, migration information systems, regulation of labour migration, social integration of migrants, environment, information, and heightened awareness in Costa Rican society, among others (Inter-Institutional Commission, May 2000).

²⁶ General Directorate of Migration and Alien Status, Planning Department. Statistical Information: Migration Exception Regime, Resolutions, 3 May 2000.

²⁷ Version included in the Office of the Ombudsman's website (www.crnet.cr/~defensor/if2001.html), chapter 4 "Ethnic groups and multiculturalism," section 6 "Migrant Population".

2.3. Permanent forum on migrant populations

The Permanent Forum on Migrant Populations has been functioning since 1995, coordinated by the Office of the Ombudsman as Technical Secretariat. Government institutions, international agencies and NGOs related to migration issues participate in the forum.

The Office of the Ombudsman participated in the III Encounter on Human Mobility organized by UNHCR and Catholic Church's Office of Social Pastoral Action in September 2000. Organizations from other Latin American nations that work on migration issues attended the forum. Costa Rican representatives promised to strengthen the forum and suggested, among others, the following recommendations:

- To have a bearing on migration policies, as well as the new General Migration Law.
- To design and disseminate a *Manual of Labour Rights* for migrants and refugees.
- To monitor or follow-up migrant training workshops organized by the Catholic Church's Social Pastoral Office.
- To heighten the visibility of those arriving and requesting refuge, taking into account the conditions of Colombian citizens, and to monitor the term in which these refugee status requests must be resolved.
- To promote from the Forum and with public authorities, the establishment of an infrastructure for migrants who are awaiting deportation or who will undergo rejection. This is a priority activity for border areas.
- To strengthen relationships between Costa Rican and Nicaraguan Forums, in order to support the bi-national project initiative of the Diocese of Ciudad Quesada and that of Nicaragua.

2.4. Ministry of Labour and Social Security (MTSS)

The Ministry of Labour and Social Security has been involved in three major aspects: diagnoses of the presence of migrant workers in seasonal agricultural activities, inspection or surveillance of labour conditions under which workers are hired, and reception and administrative processing of complaints by migrant labourers.

A Technical Area on Labour Migration was established in the Ministry, in order to better coordinate inter-institutional efforts dealing with monitoring migrant situations. This office has been in charge of preparing diagnoses in terms of manpower requirements in agricultural activities. Specific studies were carried out on orange, sugar cane and coffee harvests.

Additionally, the aforementioned Technical Area also coordinates efforts with the Labour Inspectors from the same ministry to detect anomalies in migrant labourer hiring, and with the Social Security Fund (CCSS), an institution in charge of inspecting compliance with social security affiliations in different regions of the country²⁸.

The Office of Labour Inspectors of the Ministry of Labour is the agency with legal authority to inspect the observance of labour rights of both national and foreign workers.

²⁸ Interview with Johnny Ruiz, coordinator of the Technical Area on Labour Migrations of the MTSS (7 March 2001).

Approximately 25 per cent of workers assisted as part of these endeavours are Nicaraguan (Defensoría, 2000; chapter I, section G)²⁹.

In its annual reports, the Office of the Ombudsman has proposed the strengthening of this function, since Labour Inspector activities are limited due to scant resources. However, in its most recent report (May 2000–February 2001), the Ombudsman recognized that “...there has been greater willingness on the part of the Ministry of Labour to improve its functioning, and a plan has been proposed, which will join efforts between this agency and the CCSS authorities, in order to reduce illegal labour contracts as well as the intermediation of third parties, especially against the workers’ interests” (Defensoría, 2001; chap. 4, section 6).

The Department of Labour Relations at the Ministry is in charge of processing workers’ queries and complaints³⁰ on violations of their labour rights. In a study carried out regarding inquiries and complaints filed over a nine-month period in 2000, Nicaraguans filed 21 per cent of these cases. These individuals are in a more vulnerable situation than Costa Ricans, since 76 per cent do not have evidentiary documents to prove their situation, in contrast with 44 per cent of the Costa Ricans. Furthermore, 59 per cent of the Nicaraguans have no Social Security insurance, in contrast with 27 per cent of Costa Ricans (Ministry of Labour, 2000–c).

Women filed 44.3 per cent of all inquiries and complaints presented to the Department of Labour Relations during the aforementioned period (1’271 cases of a total of 2’871). Their main occupations are as maids (20.8 per cent), industrial workers (10.6 per cent), and sales personnel (9 per cent). The rest of the occupations involved are sales agents, kitchen help, bartenders, cashiers, cooks, janitors, waitresses, secretaries, administrators, and hair stylists (*ibid.*; p. 3).

Twenty-four percent of the complaints by women correspond to Nicaraguan migrants (*ibid.*; p. 7), while participation by male migrants is lower (17 per cent). This could indicate that violation of migrant labour rights is greater in the case of women.

An important limitation of the Ministry’s endeavours is that, to date, its actions have no specific gender function or approach directed to women. This situation can be understood in migration terms as the Ministry regulates temporary migrations during agricultural harvests, in which men are generally involved. This Ministry, like several others in the country, has had a Gender Unit (or Ministerial Office for Women) since 1997. However, it was not until very recently (2001), and with the cooperation of the National Institute for Women (INAMU), that it developed a programme to offer a telephone “hotline” for women to consult and denounce cases of sexual harassment, abuse, labour aggressions, and violations of their labour rights. Nevertheless, this programme has not taken into consideration the characteristics of female migrants in the country.

²⁹ The version of the Labour Report 1999–2000 that appears in the Web site of the Office of the Ombudsman (cnet.cr/~defensor/if2000.html) was used. Due to the fact that each chapter is located in a separate hypertext file, the page number is not cited.

³⁰ The procedures include queries on and calculations of their labour rights; for example, the calculation of severance pay, conciliations with employers, and claims. Some of the complaints then go to Court when conciliation is not achieved (Ministry of Labour, 2000–c; p. 14).

2.5. Health services

The Social Security Fund (CCSS) is the public institution in charge of providing health services to the country's inhabitants. Social Security affiliation is paid by a tripartite contribution from employees, employers and the Government.

According to data provided by the Household Survey, 46 per cent of Nicaraguan migrants are not covered by health insurance, compared to only 15 per cent of the Costa Rican population (Pisoni; p. 22). Moreover, the most vulnerable groups of migrant population are not insured: "...eight out of ten non-insured persons are children under 12 years of age, the economically inactive population –mostly women-, the unemployed, and those employed in unskilled activities with the lowest wages: informal non-agricultural sector, traditional agricultural sector, and domestic household service" (Pisoni; p. 23).

This situation has led to the utilization of informal mechanisms by Nicaraguan migrants to make use of health services. One of these mechanisms is to seek emergency room services in non-working hours, since this gives them the chance to get assistance without having to present their legal documents. Another strategy is to use documents borrowed from other Nicaraguans who are insured; obviously this tactic leads to several problems in the health service centres.

According to estimations by the Social Security Fund, the approximate cost of foreign patient care represents 4.4 per cent of the total expenditure on Health Insurance (CCSS, 1999; p. 4).

To date, measuring the impact of migrant populations on health services has been limited, since nationality data on the population receiving medical assistance was not recorded until after March 2000. Furthermore, nationality was not asked for on Social Security records so it is difficult to tell whether the 1999 migration amnesty enabled a greater number of Nicaraguans to be affiliated to Social Security services.

In general terms, the approach has focused on the economic impact of migrants without taking into consideration the development of an integral health policy for migrants.

The implementation of the 1999–2000 National Reproductive Health and Migration Survey (ESR-99) allows several of the current limitations to be surmounted. The Survey provides detailed information on the reproductive health of migrant women, which also allows the design of health care policies in tune with the situation of Nicaraguan women in Costa Rica. The Central American Population Programme (PCP) in the School of Statistics at the University of Costa Rica carried out the survey in collaboration with the Institute of Health Research (INISA), CCSS, and international resources (Chen, 2000).

Migrant women's reproductive health: survey results (2000)

The University of Costa Rica Central American Population Programme (PCP) and the Institute for Health Research (INISA) carried out the 1999–2000 National Survey of Reproductive Health and Migration. The data for Nicaragua comes from two reports: "Equality and maternal and childhood health in Nicaragua" and "Nicaraguan demographic and health survey, 1988".

Use of contraceptive methods: An ample proportion (70 per cent) of migrant women use contraceptive methods, but this percentage is inferior to that of Costa Rican women (80 per cent). The prevalence of the use of contraceptive methods in Nicaragua is even lower (60 per cent).

Preventive health: There are fewer preventive health activities among Nicaraguan migrants:

- 27 per cent of female Nicaraguans tend to self-examine their breasts as a preventive measure against breast cancer, a percentage that is inferior to the 45 per cent of Costa Ricans who do so (*Ibid.*, p. 2).
- Only 37 per cent of Nicaraguan females underwent a Papanicolau (PAP) examination last year (45 per cent of Costa Ricans). In Nicaragua, the percentage of women with PAP smears was 28 per cent over the last twelve months. In Costa Rica, the percentage increases in proportion to the years they have lived in the country, and it is higher in urban areas than in rural sectors (*Ibid.*, p. 32).
- Vaccinations among Nicaraguan boys and girls reach 80 per cent of the population, 15 points below that for Costa Ricans. This represents a serious concern in the field of preventive health (*Ibid.*, p. 2).
- 59 per cent of Nicaraguans had adequate prenatal control, a figure below that for Costa Ricans, 83 per cent. 91 per cent of them had professional assistance at birth (while 96 per cent of the Costa Ricans received this assistance).
- Migrants present a more favourable health situation in the three aspects: fewer have smoking habits (6 per cent against 14 per cent who have smoked some time in their lives), less caesarian births (13 per cent against 20 per cent) and a greater proportion of vaccinations against tetanus in the last 10 years (83 per cent in comparison to 73 per cent).
- There is no difference between Nicaraguans and Costa Ricans in terms of prevalence of breastfeeding and the proportion of premature births (*Ibid.*, p.2).

Fertility: The total fertility rate (TFR) for women between 15 and 44 years of age is 2.8 children for Costa Rican women, 3.6 for migrant women, and 3.8 for Nicaraguan women. The biggest difference is present in migrant women between 15 to 19 years of age, whose fertility rate is 55 per cent higher than Costa Ricans in the same age range, and 25 per cent above that cohort in Nicaragua (*Ibid.*, p. 10).

Source: Chen, Mario (*et al.*). *Migrantes Nicaragüenses en Costa Rica 2000: volumen, características y salud reproductiva*. Universidad de Costa Rica: PCP-INISA, Report prepared for the Pension Department of the Social Security Fund, Oct. 2000.

2.6. National Institute for Women (INAMU)

The National Institute for Women (INAMU) is the National Mechanism for women in Costa Rica. It was created in April 1999 under Law No. 7801. This law elevated the political and administrative status of the prior National Centre for Women and Family (CMF), an institution assigned to the Ministry of Culture, Youth, and Sports³¹. INAMU,

³¹ The National Mechanism for women in Costa Rica dates back to 1974, when an Executive Decree in the Ministry of Culture, Youth, and Sports created the "Office of Women and Family Programmes," within the framework of the United Nations' International Women's Year. Later, the Office was promoted, as it was incorporated into the Youth Directorate and, in 1976, by means of a Law of the Republic (No. 5988), it became the "National Centre for Women and Family Improvement". An agency ascribed to the same Ministry, with functional independence and clearly defined attributions, among which coordination of all State activities related to women and family improvement stands out. Because this law did not imply any budgetary endowment, in 1979, the status of the Mechanism was enhanced to the National Centre for Women and Family Development (CMF) by means of the budgetary law. However, these budgetary problems could only be solved ten years later, when the aforementioned law was modified in 1986, and by Law No. 7026 the National Centre for Women and Family Development (CMF) was created as the institution in

as an autonomous and decentralized agency, is in charge of formulating and promoting national policies related to gender equity and equality, protecting women's rights, and promoting women's social, cultural, political and economic participation, among other functions (Art. 3).

INAMU does not work specifically with migrant women, but between 1994 and 1998 (when it was CMF), this institution designed a strategy within the framework of the Plan for Equal Opportunities between Men and Women (PIOMH) to support female migrant labourers in domestic service and an action (5.4.1) which proposed reforms to the Labour Code, in order to improve the working conditions of household maids.

In fact, faced by the difficulty of promoting a special program for the migrant population, in view of the nation's migration policy, and aware of the difficulties faced by the groups of women working as domestic help, the CMF designed an assistance strategy consisting of the following aspects:

- (a) Organise a public forum to discuss the "labour situation of household maids."
- (b) Prepare a study on the situation of household maids in Costa Rica, taking into consideration their nationality, problems faced, available services, and needs for attention (Menjívar/CMF, 1997);
- (c) Form a strategic alliance with the only organisation for household maids in the country, ASTRADOMES, to develop a test project to train trainers on workers' rights. However, the association's organisational weakness did not allow implementation of the initiative, so a strategy was prepared by CMF and its training department, involving the following:
- (d) Design, draft and validate research and training modules, entitled "I am a household maid and I know what my rights are," along with other materials for dissemination;
- (e) Approach other public entities involved in migrant population assistance and problem resolution;
- (f) Promote changes to the current labour legislation, with ASTRADOMES' support and with the cooperation with the Office of the Ombudsman and other women's NGOs, as well as changes to migrant labour regulations in Costa Rica.

The information and training modules were designed in a popular format, with pictures and captions, and in language easily understood by this specific audience. The series consists of six modules:

Module 1: Hiring

Module 2: Wages and Christmas bonus

Module 3: Work shift and vacations earned

Module 4: My right to health

Module 5: Migrant household maids

charge of national policies regarding women. This institution has its own legal status and patrimony. The Law on the Promotion of Social Equality for Women of 1990 (No. 7142) granted the CMF competence to promote women's rights and to promote gender equality. In April 1998, after two years of debate in the Legislative Assembly, CMF's initiative to promote the National Mechanism to the status of an autonomous institution with a larger budget was approved, and its supervisory attributions were also reinforced.

Module 6: Right to life without violence

These modules were validated for four months in La Merced Park, a public area where many migrant Nicaraguans (approximately 1500) gather during the week, but especially on weekends. A tent with capacity for 70 people was set up in the park, and three CMF experts were responsible for giving informative lectures (one topic per week) and answering questions from both men and women.

This strategy combined the use of modules and *in situ* training, with posters representing each topic and radio announcements by “La Voz Nica.” These advertisements disseminated the most relevant aspects of the modules and women were invited to contribute with their queries every Sunday morning in the aforementioned park. This pilot test permitted the dissemination of information to approximately 700 people (mainly females) who came to the tent to listen to the lectures and bring up their personal doubts for consultation with the specialists.

As part of this working strategy, CMF promoted coordination with different public entities, such as the Nicaraguan Embassy in Costa Rica, the General Directorate of Migration and Alien Status (DGME), and the Ministry of Public Security. This relationship was especially important in identifying the critical path followed by migrants and household maids, as well as the main formal problems to be resolved. It was particularly appropriate with the Ministry of Public Security, since their agents allowed women to approach the CMF tent with confidence while the project was implemented in the park, even though they did not have their migration documents in order. The political strategy of the DGME was also efficient. When it became evident that immigrant women coming for employment as household maids had to pay US\$ 100, CMF authorities requested a fee reduction. Executive Decree (No. 26634-SP) reduced the fee to US\$ 20. Furthermore, this effort, coordinated with the Nicaraguan Embassy, promoted the dissemination of this initiative and identified possible ways to further broadcast the information.

Nevertheless, when the new Government was elected in 1998, this initiative was suspended. The only additional information available is with regard to the implementation of an informational campaign during 1999 on the rights of migrant household maids, in which 219 women participated (INAMU, 2000; p. 15).

According to information provided in a study by INAMU, 13.5 per cent of complaints received in the Delegation for Battered Women and through the toll-free “Break the Silence” telephone service come from Nicaraguan women. This study was made as part of the National Plan for Assistance and Prevention of Intra-Family Violence (created within the framework of a National Plan bearing the same name, PLANOFI),

INAMU is also implementing the “Building Opportunities Programme” with the cooperation of IMAS. The programme’s objective is to provide integral assistance to pregnant girls and adolescents through training programmes and access to health, education and labour services, and care and attention centres for their children. A total of 4’000 girls and adolescents were assisted in 1999 (INAMU, 2000; p. 12). As the fertility rate of 15–19-years old Nicaraguan adolescents is 55 per cent higher than Costa Ricans, this programme has great potential to help migrants. However, no data is classified by nationality in terms of the population receiving these services.

2.7. Ministry of Education/IOM/AID Project

National education statistics do not allow evaluation of the impact of migration on the educational system. According to data provided by the Statistics Department of the

Ministry of Education, Nicaraguans represented 2.8 per cent of all enrolled students in 1999, four-fold the percentage registered in 1992, 0.7 per cent (Morales, 1999–b; p. 69).

The increasing number of children born in Costa Rica of Nicaraguan mothers are not considered Nicaraguans in such statistics.

Results vary according to the zones with the largest migrant presence. In a qualitative analysis carried out as part of IOM's "Programme for improving the quality of life and migrant insertion in Costa Rica," the following conclusions can be reached regarding migration impacts on regular education:

- Areas with large migrant concentrations have an overpopulation of students, with a resulting lack of suitable infrastructure, equipment and teaching materials.
- The greater age and lower educational levels of the migrant population create problems for educational management of "fragmented groups from the technical, psychological, and social points of view."
- Technical difficulties exist in assisting students with different pedagogical needs in a single group.
- Migrant students face intolerance and stereotypes because of their nationality, provoking low self-esteem among migrant children.
- Significant numbers of new students arrive during the course of the year in cantons where seasonal migrants come to work in agricultural harvests. These arrivals affect planning for sufficient supplies, equipment and furnishings, as well as increasing over-age and educational level problems. The situation is "invisible in current statistics," which makes it impossible to project and plan ahead for student relocation from one school to another. (IOM, 1999; pp. 26–27).

In order to overcome these problems, the International Organisation for Migration (IOM), together with the Ministry of Public Education (MEP), with financial resources from the United States Agency for International Development (USAID), is implementing a project called "*extension of Costa Rican educational system capacity in selected communities affected by Nicaraguan migration related to Hurricane Mitch*" (Defensoría, 2001; chapter 4, section 6). This project is directed towards schools with significant migrant enrolment, and it has two main components:

- Infrastructure: 86 schools participate: 70 per cent of these schools are located in the Metropolitan Area; the remaining 30 per cent are mainly located in the Northern and Atlantic Regions and in Guanacaste. School infrastructure was completed in December 2000. According to IOM reports, 260 classrooms and 54 bathrooms have been built. In addition, 91 classrooms have been repaired; 260 desks and chairs for teachers and 260 metal bookcases for each of the new classrooms have been provided.
- Improvement in educational quality: MEP coordinates schooling and provides textbooks for approximately 300 selected schools. The project also supplies complementary teaching materials and provides training for educators and administrators. The project estimates that training will be provided for 1'850 administrative workers and teachers in 325 schools, and teaching materials will be provided for 15'000 migrant and Costa Rican students. By February 2001, 1'089 MEP teachers and administrators had been trained in 150 workshops aimed at raising their awareness on migration issues and improving support given to foreign students. In November 2000, the introductory stage of adult literacy training was completed,

and included a module aimed at sensitising people on migration and intercultural issues in approximately 125 schools participating in the MEP/IOM/AID Programme. These schools expressed their interest in expanding or creating a literacy programme for adults. Three hundred twenty-seven teachers participated in the programme, which surpassed the original goal of 300 teachers (Defensoría; *op. cit.*).

2.8. Evaluation of Government initiatives

- Government policy implementation does not include the gender dimension. INAMU, in view of its characteristics, is the only organisation implementing a gender approach. However, its actions in migration issues focus on specific groups, not on female employment situations.
- The Ministry of Labour assists both men and women when they present their complaints. Nevertheless, emphasis has been given to regulation and inspection of labour conditions in areas where men are predominately employed, such as agricultural harvests, reducing the visibility of specific situations of female workers.
- Health services only recently began to develop a specific concern in this field, thanks to a Survey on migrant women's reproductive health. Previously, the main concern of the health authorities was to measure the economic impact of migrants on Social Security assets.
- Even though the MEP/IOM/AID Project represents progress in implementing measures to prevent discrimination against Nicaraguan children and improve the infrastructure of the education they receive, educational services depend on external financing, which is an indicator of the Costa Rican Government's limitations in coping with the migration phenomenon.

III. Private initiatives to protect female migrant workers and to ensure the protection of their rights

NGOs and private organisations working to promote and protect migrant rights have developed initiatives in migrant workers' rights awareness campaigns, promoting legislative reform, assistance and support services, and organisation of female workers. However, it is not possible to establish a clear division in each of these fields, so this chapter is arranged by NGO or organisation, indicating the areas in which they work.

The NGOs³² included are those that work with migrants. It is possible other activities exist of which this study is unaware due to their local or micro-social nature.

The following table presents the NGOs and organisations by structural issue in relation to migration assistance:

NGO or Organisation	Awareness	Support for policies and legislative changes	Assistance and support services	Organisation
ASTRADOMES	◆	◆	◆	◆
Cáritas de Costa Rica — Social pastoral activities	◆		◆	
Foundation <i>Pro Ayuda al Inmigrante</i>	◆	◆	◆	
CODEHUCA	◆			
ASEPROLA	◆			
UPONIC	◆		◆	
Other initiatives	◆		◆	

3.1. Household workers' Association (ASTRADOMES, *Asociación de Trabajadoras Domésticas*)³³

The Household Workers Association (ASTRADOMES) is both an NGO and a female labour organisation. It was established in 1991 as a labour union, registered in the Ministry of Labour. It is affiliated to the Latin American and Caribbean Female Household Workers Confederation. It has 400 members, most of them Nicaraguan, although there are also Salvadorans, Hondurans and Guatemalans. Membership requires that members have their migration documents in order.

ASTRADOMES' offers the following services: (Morales; Castro; interviews with Maricruz Joya and Rosita Acosta):

- (a) Telephone inquiries by household maids and employers.
- (b) Advice, support, and legal and social guidance for female workers with labour problems.

³² Information about *El Productor Human Rights Association* was not available. This association has developed projects with migrants in Costa Rica's Atlantic Region.

³³ Interview with Maricruz Joya, member of ASTRADOMES Board of Directors and Rosita Acosta, member (29/3/2001).

(c) Temporary shelter for dismissed workers.

(d) Training.

They provide training workshops on the following subjects: labour rights and duties, self-esteem, sexuality, and reproductive health, among others. Training activities take place on Sundays, so that female workers can participate. These activities are held in Metropolitan San José and San Carlos in the Northern Region.

Since most ASTRADOMES members are migrant women, they host activities geared towards the recovery of their cultural identity in social events where typical dishes from each country are offered, and amateur theatrical plays related to migrant women's problems are portrayed (interview).

As previously mentioned, ASTRADOMES, with support from other organisations, has promoted a proposal for a law to reform Labour Code regulations dealing with employment in domestic service (Arts. 101 to 108). In particular, this bill sets household maids' work shift at nine hours, including one hour for lunch. They also have the possibility of working an additional four hours, paid as overtime. Other rights include the payment of complete holidays and vacations (two weeks), among other benefits.³⁴ The proposal for a law is currently in Committee at the Legislative Assembly's Commission on Social Affairs.

The main *limitations* identified by this organisation in its work with migrants are:

- Migrants' fear to fight for their rights because of Costa Rican xenophobia, discrimination, and lack of sensitivity toward migrants.
- Migrant fears of dismissal from their jobs if they participate in activities organized by workers' associations. This fear is due to their ignorance about their rights.

3.2. Cáritas de Costa Rica — Catholic Church Office of Social Pastoral Activities³⁵

Cáritas de Costa Rica is a non-Governmental organisation run by the National Social Pastoral Commission of Costa Rica's Catholic Church. Its main activities focused on the migrant population are the following:

Support in documentation processes with the following resources:

- Information available in all Social Pastoral Offices around the country on the transactions necessary according to each migrant's situation.
- Contact with Cáritas - Nicaragua to forward the necessary documents to regularize their situation in Costa Rica.

³⁴ Proposed Law. Reforms to the Labour Code Chapter VIII: "On Household Services Employment," File No. 13.413, www.asamblea.go.cr/boletines/Proyectos/comisiones/sociales/agendasoc.htm.

³⁵ Information submitted by e-mail by Liliana Rojas, Officer of Cáritas de Costa Rica.

- A Caritas official is assigned part-time in the Migration offices to support the transactions made by people assisted in the different diocesan offices outside the Metropolitan Area and in its national office.
- At this time it is not possible to offer statistical data on the number of persons assisted.

Education and training

Several training and education workshops for Social Pastoral Office agents, who work on migration issues and with the migrants general, are held throughout the year.

The topics seen include the following:

- The reality migrants face
- The Church's vision
- Migrants' rights and duties (legal framework).

The leaflet entitled "Human Mobility From The Church's Perspective" (*Movilidad Humana desde la perspectiva de la Iglesia*) was prepared for use in the training workshops, covering the topics mentioned above. Three workshops per region have been carried out, i.e., at least twelve workshops in the following dioceses: San Isidro, Tilarán, Ciudad Quesada, and Limón.

3.3. Foundation for Assistance and progress of Nicaraguan migrants in Costa Rica (*Fundación Pro-Ayuda y Desarrollo al Inmigrante Nicaragüense en Costa Rica*)³⁶

This Foundation is a migrant association providing information services, legal support, education, and an employment office. It also has an enterprise dedicated to sending remittances back to Nicaragua. The Foundation has been in operation since 1999. Its two principal objectives:

- Eliminate social, political and cultural discrimination.
- Provide Nicaraguan immigrants with equitable labour conditions.

The foundation is an entity that offers services to migrants in the following areas:

- *La Voz Nica* Radio Newscast in Costa Rica started in January 1999 and the Foundation was established in October of that same year. It maintains a radio link to a station in Nicaragua and serves as an information and communication medium for Nicaraguan families with members in both countries. It is on the air Monday through Friday from 8:30 p.m. to 9:30 p.m.
- "Learning without boundaries": an educational project implemented in coordination with the Costa Rican Radio Schooling Institute (ICER) since December 2000. Its

³⁶ Interview with Mauricio Montero, President of Foundation for Assistance and Progress of Nicaraguan Migrants in Costa Rica.

objective is to help enrolled Nicaraguans obtain their elementary or intermediate education diploma at no extra cost. When it began, 400 students signed up. Data is not classified by gender.

- Medical attention: the Foundation opened a medical clinic in February 2000, because many Nicaraguans do not have access to Social Security and cannot pay a private doctor.
- Legal consultations through *La Voz Nica* radio newscast: to inform migrants on their rights and duties.
- Employment Office: a total of 250 people have been placed in different jobs. They have a 5'000-person database (not classified by gender).
- The Foundation also advises migrants on how to carry out the procedures for obtaining their legal residence.

During the period of migratory amnesty, the Foundation presented various appeals on the grounds of unconstitutionality before the Constitutional Court in various cases rejected by migration authorities.

They have also presented several processes before public institutions on subjects such as the regulation of migrant labour in private security companies, as well as healthcare and educational services.

Services are provided for both men and women. Projects are not gender-specific; data is not broken down by gender.

Some of the main *limitations* the Foundation has found in its activities include the following:

- more than half of the first to third year high school students (intermediate education) have dropped out of the educational project. They do not have an adequate infrastructure to hold classes, attributing this situation to the current xenophobia in the country.
- funds to travel to the site where the classes are held.
- some employers do not give their employees time-off to attend the classes.

3.4. Commission for the Defence of Human Rights in Central America (CODEHUCA, Comisión para la Defensa de los Derechos Humanos en Centroamérica)

CODEHUCA's labours have been carried out mainly in the field of denunciations of the deportation conditions of migrants without identification documents. For example, on March 9, 2000, in a surprise operation made by Costa Rican police in Los Chiles, near the Nicaraguan border, a total of 190 Nicaraguans were deported while they were working in orange and bean harvests. (*La Nación* Newspaper, March 10, 2001)³⁷. CODEHUCA sought respect for the human rights of these deported Nicaraguans, since they were immediately taken out of the country in trucks, without receiving their weekly wage or

³⁷ http://www.nacion.co.cr/ln_ee/2001/marzo/10/pais2.html.

being able to recover their personal belongings, such as clothes (*La Nación* Newspaper; March 21, 2001)³⁸.

CODEHUCA also investigates physical and sanitary conditions of detention centres for undocumented Nicaraguans, and presents suggestions to the Government on how to improve them. The regions where they are active are the Metropolitan Area of San José and the Northern Region (Upala, Los Chiles).

Currently, they are trying to establish a shelter for Nicaraguans with no documentation, where they can have decent lodging, food and medical services while deportation processes are carried out.

In the year 2000, they made a diagnosis of the situation of Nicaraguans in Costa Rica. They also carried out joint activities with civilian society for Migrant's Week, with a children's drawing contest, for public school children at the Plaza de la Democracia (in downtown San José).

The main *limitations* they have found in their work are:

- Financing problems: As a specifically financed project on migrants has not been prepared, they carry out their work with funding from other projects.
- Nicaraguans are afraid of being deported, thus they do not defend their human rights.
- The existence of bureaucratic obstacles for access to information from Government institutions.
- There are no communal migrant organisations.

3.5. Association of labour promotion services (ASEPROLA, *Asociación de Servicios de Promoción Laboral*)³⁹

ASEPROLA is a non-Governmental organisation founded in 1985, whose main purpose is to increase organised labour's abilities to recognise and support of the full implementation of their social rights, especially those that are labour-related.

The programmes are aimed at Central American male and female workers. Even though they do not have specific migrant projects, training activities in areas such as banana plantations, where there are many Nicaraguans working, are carried out.

Training activities are implemented in cooperation with labour unions and other organized groups covering areas such as female leadership support, organisation, and planning.

Currently, there is an agreement with UPONIC to create a module on labour rights for the technical majors given by this institution.

Their efforts are aimed principally at workers, with participation by both genders.

³⁸ http://www.nacion.co.cr/ln_ee/2001/marzo/21/pais6.html.

³⁹ Interview with Ana Victoria Naranjo, ASEPROLA officer (30/4/2001).

The most important *limitations* found in their work with migrants are:

- difficult access to banana plantations
- undocumented workers' fear of involvement
- participation in training activities is difficult when a banana-cutting job may turn up unexpectedly.

3.6. Nicaraguan Polytechnic University (UPONIC)

UPONIC has its central campus in Nicaragua, where college courses are given. In Costa Rica, they provide literacy programs, remedial secondary education and technical specialties.

This project was founded a year ago; lessons are taught on Sundays. A registration fee of three thousand colones (US\$ 9.20) and tuition fees of five thousand colones (US\$15.30) per month are charged. Teaching materials are photocopied. The professors are Costa Rican volunteers from Calle Blancos Technical High School, and there are two Nicaraguan professors.

At present they only carry out their activities in the San José Metropolitan Area, but a project to open a campus in San Carlos (a canton bordering Nicaragua) through an agreement with the Costa Rican Institute of Technology (ITCR) is being promoted.

UPONIC's objectives are:

- to retrain workers to increase migrant job opportunities
- to establish a culture of personal improvement through learning
- to motivate the growth of immigrant self-esteem

Currently 60 students are enrolled. Only one course, dressmaking, is aimed specifically at women, in which 11 women are enrolled.

The major *limitations* found are:

- scant financial and infrastructure support for the provision of courses. To date, they have only received support from the Technical High School in Calle Blancos.
- problems for undocumented students.
- high dropout rate, since some students feel that using their day-off to study is very tiring.

3.7. Initiatives by religious communities

Casa María Auxiliadora⁴⁰

Casa María Auxiliadora offers two types of services to women below the poverty level, including migrants: education and health services. It is run by a Catholic religious order. In the educational area, they have the “María Mazzarella” Women’s Training Centre, where literacy courses, as well as basic education courses (from grade school through ninth grade intermediate school), and job training (sewing, handicrafts, accounting, hairdressing, and dressmaking) are offered. A total of 746 students are enrolled, of whom 67 per cent are migrants, mostly Nicaraguans.

Medical consultation services for people who cannot pay a private doctor or do not have Social Security are offered as well. Ninety percent of the people cared for are Nicaraguans⁴¹.

La Carpio Clinic

The La Carpio urban marginal settlement relies on an Evangelical Church clinic that provides health services to alien and native residents. This clinic has general medicine, dentistry, gynaecology and paediatric services. The Social Security Fund provides medication through a community health project. The service has a voluntary charge of 500 colones (US\$1.30). A weekly average of 80 persons are taken care of. (Marín, *et al.*; p 42) Through this clinic, Nicaraguans who do not have Social Security or identification documents can access health services. The clinic has also offered psychological support to teens in response to the high incidence of pregnancies and gender-based aggression.

La Carpio Lutheran Church

The Lutheran Church in La Carpio provides training programmes for male and female migrants on working rights, job training, prevention of intra-family violence, and literacy, among others (Marín; p. 43).

3.8. NGOs in the field of research on and assistance for victims of sexual exploitation

A few non-Governmental organisations work with sex workers and the sexually exploited, sectors in which migrant women are also present.

Covenant House (Casa Alianza)

Casa Alianza is the Latin-American subsidiary of Covenant House, which is headquartered in New York. The organisation carries out programmes to assist street

⁴⁰ Information provided by the Director, who coordinated the participation of a group of students in a household maids focus group.

⁴¹ *La Nación* Newspaper, May 6, 2001, Sunday Magazine Section (Revista Dominical), p. 14. Sor María Romero (1902–1977), a Nicaraguan nun who lived in Costa Rica since 1931, was the main promoter of a series of social welfare programmes in María Auxiliadora Training Centre (Casa María Auxiliadora).

children in several countries of Central America and Mexico⁴². Costa Rica is the site of the Latin American Regional Office, which carries out research, lobbying, publications and information for the media, information centres and databases, among other efforts. Although they do not assist children directly in Costa Rica, they maintain an effort to denounce and research the impact of sexual tourism and child and adolescent exploitation by pimps. Currently, they are implementing a study on networks that traffic in women from Costa Rica to the United States and Canada, as their representative revealed in the focus group held within the framework of the study on sexual exploitation.

Latin American Institute for health prevention and education (ILPES)

ILPES is a non-Governmental organisation that arose to prevent the spread of HIV in the Costa Rican homosexual community, but has extended its services to other population groups (transvestites, sex workers, prisoners, juvenile delinquents). ILPES developed an assistance programme for sex workers called La Sala. In the focus group on this subject, the ILPES representative reported that between 10 per cent and 15 per cent of the women assisted were immigrants. ILPES closed its doors on April 30, 2001 due to financial problems⁴³.

Foundation for developing the fight against AIDS (FUNDESIDA)

FUNDESIDA is a foundation that provides, in cooperation with the Social Security Fund (CCSS), a service for the prevention of sexually transmitted diseases directed towards adult sex workers. According to their representative in the focus group on this topic, they estimate that around 40 per cent of women assisted are immigrants, primarily Dominican, but also Nicaraguan and other nationalities.

Rahab foundation

The Rahab Foundation carries out programmes of social rehabilitation and reinsertion for adult women who have been sex workers, and this includes a year-long subsidy for food and housing, training workshops, and group and spiritual therapy. At present, they work with 17 women, of whom three are Nicaraguan and one is Salvadoran⁴⁴. Also, there are shelters for girls who have been sexually exploited, one of which is managed by the Salvation Army.

3.9. Evaluation of private initiatives

- Private initiatives for the protection of female migrant workers' rights are scattered. Different non-Governmental organisations work on a truly micro-social level, and their efforts are limited to specific sectors of working women.
- ASTRADOMES is the only organisation strictly for female migrant workers. Its effort is, without a doubt, commendable within a social sector that is hard to organize

⁴² <http://www.casa-alianza.org/ES/about/>

⁴³ <http://www.gaynesscr.com/nacionales.html> (May 2001 Edition).

⁴⁴ Information given by Mariliana Morales, Rehab Foundation's Director in a telephone interview.

because of its labour conditions. They face limited resources, depending mainly on international cooperation to carry out their activities.

- The gender approach is, for the most part, hidden in the work carried out by the rest of the NGOs, which tend to report activities equally split between men and women. However, this “equality” implies that help for men predominates, since no specific efforts are aimed at the needs of female migrant workers.
- Factors limiting participation and organisation including the xenophobia of the majority of Costa Ricans, financial and work-shift difficulties among the workers, as well as immigrant fears of losing their jobs or being deported.

IV. Institutional framework

4.1. Institutions to promote, implement and supervise policies and legislation

A summary vision of the State's social policy

The Costa Rican Government has a powerful institutional structure in the social arena, organised by sectors of activity articulated by an assembly of ministries, decentralized institutions, public programmes, and activities all working in the same field of action to accomplish basic Government objectives, which are governed by an overarching Ministry (see box 11).

Box 11

Subdivision of the Costa Rican Government's social policy areas

Health Sector (Decree No. 14313-SPPS-PLAN *La Gaceta* Official Journal, 22 March 1983), consisting of the Ministry of Health, MIDEPLAN, Ministry of the Presidency, ICAA, CCSS, programmes or activities by the following institutions: INS (Occupational Risk Programme and others related to prevention and treatment), UCR (with regard to Health Research Institute and its Medical Sciences Area).

Educational Sector (Decree No. 14349-PLAN-E, *La Gaceta* Official Journal 59, 25 March 1983) MEP, MIDEPLAN, Presidency, UCR, ITCR, UNA, CONARE, UNED, University Colleges such as: CUNA, CUC, CUP, INA, Central American School of Animal Husbandry, CONICIT, CONAPE, SINART, and similar programmes.

Labour and Social Security Sector (Decree No. 14312-TSS-PLAN, *La Gaceta* Official Journal, March 22, 1983). Consisting of MTSS, MIDEPLAN, Ministry of the Presidency, CCSS, INS, INA, INFOCOOP, IMAS, PANI, Banco Popular (Workers' Bank), Social Development and Family Allocations Office, DINADECO.

Housing and Human Settlements Sector (Decree No. 14314-P-PLAN, *La Gaceta* Official Journal, 22 March 1983) Ministry of Presidency, MIDEPLAN, National Housing and Urbanism Institute, Costa Rican Water and Sewage Systems Institute, Ministry of Labour and Social Security (MTSS), National Savings and Loans System created by Law 1338 in May 1969, housing financing and construction programmes such as SBN, CCSS, INS, IMAS, IFAM, IDA, Banco Popular.

Culture and Recreation Sector (Decree No. 14501-C-PLAN, *La Gaceta* Official Journal 93, 17 May 1983).

Costa Rica's level of social preparation to face the massive nature of Nicaraguan migration is insufficient due to a combination of two aspects: (a) it's the limited capacity to measure the impact of the migrant population, since most of the institutions have not kept records on their users' nationalities, and (b) the absence of specific policies for migrant assistance (Proyecto Estado de la Nación, 2000, p. 130).

Handling of migration issues

The DGME and the National Migration Council are responsible for the implementation of Law No. 7033. Both organisms belong to the Ministry of the Interior and Police.

The National Migration Council includes the General Director of the DGME, and a representative assigned by each of the following organisations: Ministries of Foreign Affairs and Worship, Interior and Police, Public Security, Labour and Social Security, Justice, and the Costa Rican National Tourism Board.

Office of the Ombudsman (La Defensoría de los habitantes)

The Costa Rican Office of the Ombudsman is a comptroller agency that is part of the Legislative Branch, created by Law No. 7318 on 17 November 1991. Its main objective is to make sure public sector activities are implemented, complying with judicial legislation and the dictates of morality, so as to respect and protect at all times citizens' rights and interests.

The procedure designed by the Office to receive complaints, objections, accusations or inquiries, consists of four basic phases: admissibility, investigation, resolution, and follow-up. With this process the Office attempts to guarantee agility, flexibility, informality and respect for constitutional rights, from both public officials and their accusers.

Within the organic structure of the Office of Ombudsman, it is the Special Protection Department's duty to be aware of the situation of different social sectors whose fundamental rights are frequently harmed or are vulnerable to harm. This vulnerability is a result of their unfavourable conditions in the face of authority, both *de facto* and *de jure*, which compels public agencies and society in general to provide them with special protection. This office is responsible for the handicapped, the elderly, migrants, indigenous tribes, persons of different sexual preferences, and citizens who are subject to formal social control: those apprehended by police, facing the administration of justice, and those in prisons.

The Office also has a unit especially committed to the protection of women's rights.

Constitutional Chambers

The Constitutional Chambers (*Sala IV*) was established by a reform of the Political Constitution (Law No. 7128, August 18, 1989), which is articulated and complemented by the Law on Constitutional Jurisdiction No. 7135, October 11, 1989, filling a significant gap: the absence of constitutional control, which up to that moment was a faculty of the Full Court.

The fundamental objective of the Constitutional Chambers is to guarantee free exercise and enjoyment of all constitutional rights. Its mission has essentially been to retake issues on individual liberties and rights, and the guarantees of due process in administrative and penal milieus.

4.2. National and international coordination efforts

The Forum on Migrant Populations was established in 1995, under the aegis of the Office of the Ombudsman. Currently it is known as the Permanent Forum on Migrant Populations. Public institutions, non-Governmental organizations, research centres, international donors and agencies related to migration issues participate in the Forum. It consists of four commissions (Labour Affairs, Social Issues, Juridical Aspects, and Information and Dissemination). The Office of the Ombudsman acts as the Forum's Technical Secretariat.

The Forum's main objective was established in 1999, and it involves promulgation and implementation of integral policies that incorporate attention to migration dynamics and provide for the protection of the human rights and quality of life of all migrant populations in Costa Rica. The following constitute the necessary conditions to attain these goals:

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- improve information systems with regard to quantification and characteristics of migrant populations
 - ensure comprehensive social services
 - strengthen international relations between Costa Rica and Nicaragua.

At the international level, the most significant cooperative effort with Costa Rican participation is the Regional Conference on Migration (RCM), also known as the Puebla Process, since Puebla was the location of the first conference in 1996, with the participation of the Presidents of Mexico and Central America (including Belize and Panama). In March 1997, the Conference (with further participation from the United States and Canada) approved an action plan that included issues such as migration policies, linkages between development and migration, migrant trafficking, international cooperation for the return of extra-regional emigrants, migrants' human rights, and technical cooperation. The Puebla Process is important because it is the result of a multilateral exchange on migration issues in which regional countries of origin, transit, and destination are participating (<http://www.crmsv.org>).

Within this framework, in February 2000 the Seminar-Workshop entitled "Migrant Women, Boys and Girls" took place in El Salvador as part of the Action Plan of the Regional Conference on Migration or Puebla Process. Representatives of civilian society, academic experts and specialists from international organizations took part in the event in order to share best practices, experiences and ongoing research with Government workers, in order to achieve the objective of formulating recommendations for concrete actions. These recommendations refer to a legislative framework, access to services, labour conditions, human rights and the cultural phenomenon which migrant women and children were experiencing in the region. (Refer to: IOM, 2000).

The International Organization for Migration (IOM), as an international agency specialized in migration issues, has been cooperating with and supporting the Puebla Process in terms of technical assistance, research, seminar implementation and project formulation. From the point of view of IOM's specific contributions to Nicaraguan and Costa Rican societies and Governments, in order to deal with the migration problem in an integral way, IOM mobilises resources by means of its "Programme for Improving the Quality of Life and Migrant Insertion in Costa Rica".

In order to carry out the Seminar-Workshop "Migrant Women, Boys, and Girls," in El Salvador in February 2000, as part of the Puebla Process, IOM, the entity in charge of organising the event, commissioned the *Fundación Género y Sociedad* (GESO) to prepare a document to serve as the basis for discussion. This document organises the information available in the region on issues faced by women and children and identifies their main problems (García y Gomáriz/GESO, 2000).

As an initiative to provide assets for developing bi-national plans, the United Nations Development Programme (UNDP) held two workshops, the first one on 12–13 November 1999 in Costa Rica, and the second on 17–18 March and 2000 in Nicaragua. The first workshop analysed FLACSO's Diagnosis on migration: "The Unremitting Flow. Regional, Labour, and Social Problems of Nicaraguan Migrations to Costa Rica" (*El paso incesante. Problemática regional, laboral y social de las migraciones nicaragüenses a Costa Rica*) as a motivational element for the workshop. The following subjects were analysed in the workshop: border-zone development and environment; commerce, industry, and investments; communications media, culture and education.

Concrete proposals were provided in the second workshop, by taking up ideas presented in the first meeting. Specifically, bi-national working groups were established on the following subject areas:

- labour and management network
- university and academic and cultural sectors network
- journalism and media network
- environment and sustainable development network.
- technical support on integrating the gender perspective into sectorial networks
- support module for the Federation of local Governments and border-zone communities in Nicaragua and Costa Rica.

In the period between March and August 2000, the design stage of each of the aforementioned topics was implemented, and their execution is expected to start in March 2001 (UNDP. Costa Rica and Nicaragua: Dialogue in Civilian Society) (UNDP, 2000).

Within the framework of the bi-national project entitled “Working groups and organisational networks within civil society in Nicaragua and Costa Rica,” a group of specialists in gender issues was appointed to define a strategic plan to allow the integration and strengthening of the gender perspective in different sectorial networks –managerial and labour, university, social communications, environment and sustainable development- (UNDP, 2000, p. 77). Under this perspective, a recommendation was made to prepare a bi-national effort to define a working agenda aimed at reinforcing dialogue among women from both countries. In this sense, a Commission on Women’s Organisations operates in each country. Their initial efforts have been aimed at a situational diagnosis and analysis of the impacts of migration from a gender sensitive outlook and with particular emphasis on the situation of women ⁴⁵.

⁴⁵ The researchers responsible for this case study were invited to participate in a round-table conference with other researchers in the first meeting to prepare a diagnosis of the situation of Nicaraguan migrants in Costa Rica (1 March 2001).

Conclusions and recommendations

Conclusions

On the migrants

1. Of every five immigrants, four are Nicaraguan; for this reason, Nicaraguan migration has become a first-order phenomenon for current Costa Rican society. A valid estimate of the number of Nicaraguan migrants, carried out by the University of Costa Rica's Central American Population Programme, places the number between 300–340'000 Nicaraguans, who represent between 7.8 per cent and 8.8 per cent of the total Costa Rican population.
2. A distinctive feature of Nicaraguan migration is that it involves groups of individuals attracted to seek employment in non-skilled occupations. On the other hand, migrants of other nationalities are mainly comprised of middle class individuals.
3. Nicaraguan immigration is basically labour migration. Consequently, the largest age groups are those between 20 and 29 years of age. Eighty per cent of these migrants are wage-earning employees, compared to 71 per cent of Costa Rican labour force. Over time, gender composition has experienced some changes; at the beginning of the 90s, women represented a smaller proportion of migrants, currently they represent slightly more than one-half (51.5 per cent of the migrants in 2000).
4. Regarding labour performance, migrant women tend to concentrate to a greater extent than their Costa Rican peers in non-skilled personal service, while men tend to be employed in construction and agricultural activities. By occupational category, 62.2 per cent of Nicaraguan women fall in service occupations, twice the percentage for Costa Rican women (30.2 per cent). Similarly, it is noteworthy that few technical and professional women are migrants to Costa Rica (a mere 0.8 per cent). Industrial occupations are the second most important group, at 14.3 per cent, followed by women in sales and commerce, 12.3 per cent.
5. With regard to their territorial settlement patterns, we can observe a trend towards a definitive type of settlement providing for family reunification. Adults who have fit into the Costa Rican labour market then bring younger family members from Nicaragua to Costa Rica.
6. The factors that attract this migrant population are basically socio-economic (in contrast to the eighties, when there were also socio-political factors). Costa Rica's better social and economic situation makes the country attractive from the perspective of Nicaraguan citizens. On the other hand, labour market demands in Costa Rica justify recourse by Costa Rican companies to Nicaraguan migrant workers, who will perform duties no longer acceptable to Costa Rican men and women.
7. These factors of attraction are similar for both genders, in spite of the differences in labour distribution between men and women. Both women and men, perceive Costa Rica as a country with higher incomes and greater job opportunities. Furthermore, the immediate proximity of the two countries facilitates close relationships with those left behind in Nicaragua (relatives, friends, etc.), as well as forming solidarity networks in Costa Rica.

With regard to trafficking in persons

8. Two principal types of trafficking in persons exist in Costa Rica: organized traffic, in which the country has the function of a transit zone; and informal traffic, related to

Nicaraguan immigration to Costa Rica. However, the presence of increasing numbers of immigrant sex workers due to sexual tourism in Costa Rica is a phenomenon that could signify a matter for growing concern.

9. Thus, a panel of male and female experts organized for this study calls attention to two main aspects. On the one hand, there are trafficking networks related to the sex industry in Costa Rica. These networks recruit women (in some cases by deceit) to work in brothels in Canada. According to Casa Alianza workers, procurers have turned to fraudulent marriages so that under-aged girls can obtain legal residence in target countries, thus avoiding deportation.
10. Furthermore, the sexual exploitation of girls and adolescents has increased in recent years, and mainly due sexual tourism. A study carried out by the University of Costa Rica for UNICEF analysed 121 cases, identified by programmes for children at social risk. Of 103 female and 18 male children, 62 per cent had North American tourists as clients, 32.3 per cent Europeans, and 16.5 per cent clients from both locations.

Legislation and institutional framework

11. In a strictly juridical sense, Costa Rica possesses enough legal instruments to handle migration. On the one hand, it possesses specific legislation (General Law on Migration and Alien Status, even though it needs to be brought up to date, as well as complementary laws and decrees, and has signed the ILO Conventions). Furthermore, it has adopted an inclusive legal approach, which implies that migrants are protected by ordinary national legislation. Additionally, the Office of the Ombudsman explicitly protects every person on Costa Rican territory. This is of extreme importance for women, given the fact that Costa Rica has acquired one of the most advanced legislation systems in America in terms of protecting women's rights.
12. However, this all-encompassing legislative coverage does not warrant easy access to the administration of justice for these migrants. This failure occurs because of migrant fear, especially among those lacking their legal documents, and also because no legal facilities ease access for those individuals to the justice system. In fact, to date, no women have presented an issue before the Office of the Ombudsman, in issues dealt with by the Office for Women's Protection.
13. A similar situation exists in terms of institutional frameworks. Costa Rica has an important institutional framework in relation to social policies. However, this framework was overwhelmed by the massive nature of Nicaraguan migration, whose regularisation was attempted through the migration exception regime decreed in 1998.
14. One of the foremost difficulties deals with respect for migrant labour rights. An indicator of this labour force's disadvantage is the wage differential between nationalities. Nicaraguan women earn only 66 per cent of the wage level of Costa Rican women.
15. Thus, it is not surprising that full recognition of labour rights is the major concern of female Nicaraguan workers who participated in the focus groups organized for this study. In this regard, the Ministry of Labour and Social Security faces significant human and material resource limitations in order to control employer abuse of female migrant labour.
16. With regard to the institutional framework on migratory issues, it can also be seen that the General Directorate of Migration in Costa Rica lacks human and material resources to fully perform its duties. Additionally, the current regulatory framework does not consider trafficking in persons a crime, which represents an important source of vulnerability given the resurgence of this phenomenon at the international level.

Initiatives on migrant protection

Government initiatives

17. Although the Ministry of Labour assists both men and women to present complaints or accusations, primary emphasis on the regulation and inspection of labour conditions has been in areas where men work, such as agricultural harvests, lowering the visibility of specific conditions for women.
18. Not until very recently, by means of a survey on migrant women's reproductive health, did health services begin to incorporate specific concerns about women in this area. Prior to this, the main health concern was measuring the economic impact migrants had on Social Security finances.
19. Even though the MEP/IOM/AID Project represents an advance in educational services, by developing measures to prevent discrimination against Nicaraguan children, and improve their educational infrastructure, it depends on external financing, which clearly reveals Costa Rican Government limitations in the face of the migration phenomenon.
20. The gender dimension has not been visualised and incorporated as an approach when implementing Government policies. Because of its nature, INAMU is the only institution that develops a gender approach. However, its actions regarding migration issues are focused on specific groups, not on the labour situation of female workers.

Private initiatives

21. Some dispersed private initiatives protect female workers' rights. Different NGOs and organisations work at an exceptionally micro-social level, and their efforts are limited to very specific sectors of female workers.
22. ASTRADOMES is the only organisation specifically for female migrant workers. Its efforts are without a doubt praiseworthy, since the organization works with a social sector difficult to organise because of its labour conditions. It faces resource limitations, as it depends primarily on international cooperation to perform its activities.
23. The gender approach is almost invisible in the efforts of other NGOs. These usually state that they work with both men and women, but what this implies is that men's activities usually predominate because there is no specific effort to care for the needs of female migrant workers.
24. Factors limiting organization and participation include the generalised xenophobia among Costa Ricans, economic and time limitations for female workers, and female migrants' fear of losing their jobs or being deported.

Best practices

25. *Permanent Forum on Migrant Populations.* The creation, operation, and consolidation of the Permanent Forum on Migrant Populations can be considered a good practice in Costa Rica, since it constitutes a meeting space of an inter-institutional, inter-sectorial, and multidisciplinary nature that gathers State and Government institutions, international agencies and non-Governmental organisations that, due to their mandates and competencies, are directly related with migrant populations settled in Costa Rica.

The Forum has undertaken different initiatives to have a bearing on:

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- Improvement of information systems on the quantification and characteristics of migrant populations.
 - Integrity of social services.
 - Development of public policies aimed at migrant social integration.
 - Respect for migrants' labour and social rights.
 - Strengthening of bi-lateral relations between Costa Rica and Nicaragua.

26. *Household Workers Association.* The Household Workers Association (ASTRADOMES), which is at the same time a NGO and workers' association, offers a second example of best practices, in view of its systematic incorporation of the gender approach. It was founded in 1991 as a labour union organisation registered in the Ministry of Labour, becoming an association in 1998. Its efforts at heightening awareness and organisation show the importance that this Association has assumed among female workers, especially migrants, in socialisation and humanisation. Moreover, this organization has shown that the fight to improve ones' rights is only possible through working on the basis of common group interests.

Nevertheless, it needs to strengthen its negotiating ability and organizational capacities since, as this study has shown, other economic interests, especially those of middle and upper-class women, have effectively hampered legislative amendments to protect ASTRADOMES' affiliates from discrimination in comparison with other jobs.

27. *Initiatives from the National Mechanism for Women.* The third best practice is a pilot study carried out by the National Mechanism for Women between 1994 and 1998, the then National Centre for Women and Family, currently INAMU. During that Administration, the implementation of a National Plan for Equal Opportunities between Men and Women (PIOMH), of an integral and strategic character, allowed for the identification of the main areas of interest that the group of Government entities had to care for. One of these was the employment/labour area, in which the aforementioned entities had to establish priorities for the actions directed to women's groups facing severe difficulties in the labour sector. Thus, the agency designed a strategy to undertake and strengthen support actions for female workers in household services, a category facing the greatest lack of protection and problems of violations of rights. The migration variable must also be considered, since this is an occupational group in which alien female labourers represent a significant percentage.

The strategy promoted by the Mechanism and in particular the project "I Am a Household Maid and I Know What My Rights Are," indicate the possibilities that exist for protection of women's rights within the gender perspective and as a political strategy. These possibilities may be implemented from within the sphere of Government and under strict migration policies.

Recommendations

28. Migration legislation modernization is an urgent need, to provide effective instruments for dealing with migration problems. This includes prevention and punishment of phenomena such as trafficking in persons, as well as the ratification of ILO Conventions on migrant rights that the Government of Costa Rica has yet to sign.
29. Definition of a true migration policy, not only regarding migration controls, but also taking into consideration the importance of this phenomenon for Costa Rica's overall

development strategy. This definition should imply sector-type considerations in both social and economic sectors in Costa Rica.

- 30.** Over the short and medium-term, guarantee the social integration of those individuals who have accepted the migration exception regime, in terms of achieving a full citizenship, which is understood as integral respect for all human rights.
- 31.** Revision of different procedures and requirements migrants must submit to in order to legalize their condition in the country or renew their legal residence. The current system was established in terms of migrants belonging to middle and upper socio-economic strata. Most Nicaraguan migrants border the poverty line, so it is very difficult for them to pay the required fees in order to maintain their legal residence in Costa Rica.
- 32.** Develop campaigns to raise public awareness among migrants and their employers regarding the convenience to society of regularising migrant access to Social Security. In addition, it is very important to study and revise the requirements of the migrant population, to obtain their affiliation to Health and Maternity, and particularly Disability, Old Age, and Death regimes, so as to determine flexible options considering the specific nature of their situation in Costa Rica.
- 33.** Visibility and incorporation of the gender approach to policies and activities of public and private institutions related to migration issues. In order to achieve this, coordination initiatives between the National Institute for Women and other corresponding public institutions are highly recommended.
- 34.** Together with the gender approach, it is important to include migration status as a transversal axis within numerous social policies, in order to offer appropriate responses to the situation of female migrants and overcome the double discrimination of gender and nationality.
- 35.** Encourage campaigns to heighten awareness of migrant rights. Their success is linked to a simultaneous attack on xenophobia. In the case of women, these campaigns should incorporate knowledge of laws for the promotion of women in Costa Rica, and the possibility of recourse to the Office of the Ombudsman.
- 36.** Favour the organisation of migrant associations promoting migrant access to the justice system, especially with regard to their labour rights. Such organisations can also act in relation to labour unions and other Costa Rican labour organisations.

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