

Costa Rica

Self-Rule

INSTITUTIONAL DEPTH AND POLICY SCOPE

Costa Rica is a unitary country with, until 1995, one tier of deconcentrated intermediate governance of seven *provincias* (C 1949, Art. 168). In addition, six deconcentrated regions, created in the 1970s by executive decree, partly crosscut the provinces.² They were set up as regional outposts for central government policy.³ Costa Rica also has two-tiered municipal governance consisting of eighty-two *cantones* (cantons) divided into more than 450 *distritos* (districts).⁴ Unlike provinces, these have constitutionally protected self-governance (C 1949, Art. 169), further strengthened by decentralization reforms in the late 1990s and early 2000s (Ryan 2012). Costa Rica also has 24 self-governed *territorios indígenas* (indigenous territories).

Provinces were abolished as governments in 1995 (Hall, Arce, and Monge-Naranjo 2002: 7). They continue to exist as statistical categories and electoral districts for the unicameral legislative assembly (C 1949, Art. 106). Until then each *provincia* had a centrally appointed *gobernador* (governor) who acted as the intermediary between central and local government for matters not assigned to central departments (Decree 17858-G, Arts. 4, 6.e, and 6.f), was responsible for security and order (Art. 5 and 7), applied national tax law regionally, and oversaw the implementation of development programs (Decree 17,858-G, Arts. 6.a and 6.g).

In an effort to improve interprovincial coordination, a Gubernatorial Council (*Consejo de Gobernaciones*) was created in 1987, which consisted of representatives of the ministry of the presidency, the police, and the governors of the *provincias*. The council was chaired by the ministry of the presidency (1987 Decree 17,858-G, Arts. 10 and 11), and convened by the minister of interior affairs (Art. 13). It was tasked with analyzing the main challenges faced by the *provincias* and with formulating recommendations to the central government (Art. 12). In 1995 the council and the provincial governorship—and

² The Central Valley region consisted of the provincias of Alajuela, Cartago, Heredia, and San José; the Northern Pacific and Northern Plains regions partitioned the provincia of Guanacaste; the Caribic region coincided with the provincia of Limón; and the Southern and Central Pacific regions partitioned the provincia of Puntarenas.

³ Base de Datos de las Américas. Decentralization Study.

<<http://pdba.georgetown.edu/Decen/CostaRica/costarica.html>>.

⁴ The *cantón* of Río Cuarto, in Alajuela province, was created in 2017. “¡Es oficial! Río Cuarto es el cantón 82 de Costa Rica,” *La Prensa Libre*, March 30, 2017.

<http://www.laprensalibre.cr/Noticias/detalle/107154/es-oficial-rio-cuarto-es-el-canton-82-de-costa-rica-> . Accessed April 30, 2019

with it the provinces as government units—were abolished (Executive Decree 24629; Hall, Arce, and Monge-Naranjo 2002).^α

Costa Rica’s municipal code allows *cantones* and *distritos* to create federations and confederations (which are sometimes also referred to as *mancomunidades*) on a voluntary basis (Law 4574 of 1970, Arts. 14-17; Law 7794 of 1998, Arts. 9 and 10; see also Elmenhorst et al. 2011; OECD 2015, 126). As of 2016, there were ten active federations of cantonal municipalities; most of the country’s *cantones* (66) are part of a federation (Contraloría General de la República 2016, 5). Although the law does not mandate the creation of specific institutions and each federation has a different institutional setup, in practice all of them have a general assembly (made up of the mayors of all member *cantones*), an executive council, and an executive director (8). However, these federations do not rise to the level of general-purpose administrations. Although each federation determines its specific aims and activities, their most common functions are to coordinate municipal policies among member *cantones* around a particular public good such as waste management or transportation (task-specific administration), provide financial and technical assistance to member *cantones*, and lobby the national government on their behalf (Contraloría General de la República 2016; OECD 2015, 126). Cantonal governments do not transfer any of their own competences to municipal federations. In addition to federations, the urban agglomeration formed around the capital city of San José, encompassing 31 *cantones*, is commonly known as the Gran Área Metropolitana (Great Metropolitan Area, GAM). However, the GAM does not have a separate regional government.

Costa Rica’s *territorios indígenas*, inhabited by eight different indigenous groups, make up 6.7% of the country’s land area and 1.13% of the population (INEC 2011; IWGIA 2019, 83). The 1977 Indigenous Law provided for *territorios indígenas* to be governed by a *consejo directivo* (directive board) within each community (Law 6172, 1977, Art. 4), but the executive decrees that regulated that law specified that existing *asociaciones de desarrollo comunal* (communal development associations) would “act as local government” in indigenous communities (Executive Decree 13568-C-G, 1982, Art. 1). Such *asociaciones* are voluntary government-funded community participation bodies first created in 1967. They are present in most Costa Rican districts and have a hybrid status as “private law entities” but also “public interest entities” (Law 3859, 1967, Art. 11). Only in *territorios indígenas* do they have the status of local governments, as ratified by a 2006 Supreme Court decision (Sala Constitucional 2006-14545).⁵ This status has been contested by indigenous

⁵ See “Asuntos indígenas: Naturaleza jurídica,” *Dirección Nacional de Desarrollo de la Comunidad*, <http://www.dinadeco.go.cr/indigenas.html>. Accessed June 16, 2020.

organizations and activists, who do not view *asociaciones* as legitimate representatives of Costa Rica's indigenous peoples (Pérez Granados 2017). Indigenous organizations have been calling for the passage of an autonomous development law since the early 1990s, and some bills have been introduced to the national legislature, but none have been approved (IWGIA 2019, 84-85). Despite their legal status as local government, the activities and decisions of *asociaciones* are subject to government veto, both by the national government and by the governments of the *cantones* in which they are located (Law 3859, Arts. 18 and 25), so *territorios indígenas* score 2 on institutional depth. Indigenous *asociaciones de desarrollo comunal* have broad authority to carry out local development activities and projects within indigenous territories, which we code as economic policy (policy scope = 1).

FISCAL AUTONOMY

The national legislative assembly sets the base and rate of all taxes in Costa Rica (C 1949, Art. 121).

BORROWING AUTONOMY

Regional governments in Costa Rica, including indigenous *asociaciones de desarrollo comunal* (Executive Decree 25409, 1996, Art. 41), cannot borrow.

REPRESENTATION

Provincias do not have an independent legislature or executive (C 1949, Art. 168). Indigenous *asociaciones de desarrollo comunal* have an executive board and a general assembly (Decree 25409-G, 1996, Art. 24). General assemblies must include at least 100 members from the community in order to be constituted (Art. 11). This self-governing body must follow the criteria set out in the executive decrees and must be approved by the national government before starting to function (Decree 25409-G, 1996, Arts. 3, 12, 14, 19; Decree 26935-F, 1998, Art. 15). Any resident in the territory older than 15 years old can be a member of the assembly and every member has equal voting rights. Assemblies function as a form of direct democracy for those who decide to participate, albeit no one is obliged to do so. Those who are not members of the assembly are “not exempt from covering the economic obligations that are pending with the association” (Decree 25409-G, 1996, Arts. 21-22). This functions as a form of directly elected assembly (=2). The assembly elects by simple majority its own board by secret ballot (Decree 25409-G, 1996, Art. 26.a), thus reaching 2 on executive representation.

Shared rule

Costa Rica does not have any shared rule mechanisms. A 2018 executive decree established a consultation mechanism for indigenous peoples, providing for traditional authorities to be consulted “whenever administrative measures, bills promoted by the Executive Branch, or private projects which may affect them is considered” (Executive Decree 40932-MP-MJP, Art. 1). However, the consultation process sidesteps *territories indígenas*’ formal governments (*asociaciones de desarrollo comunal*), focusing instead on “representative organizations or institutions of indigenous peoples.” These institutions are defined as entities that are “elected or recognized by the indigenous peoples, following an internal, community-based, and participatory process, for the representation of their affairs, rights, interests, and decisions” (Art. 2). Since the consultation process does not grant any authority to existing regional governments,⁶ we do not code it as Shared rule.

⁶ The decree also states that the activities of *asociaciones de desarrollo comunal* are subject to the same consultation mechanism. Indigenous organizations have seen this decree as a step toward more autonomous self-government (IWGIA 2019).

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Self-Rule in Costa Rica

		Institutional Depth	Policy Scope	Fiscal Autonomy	Borrowing Autonomy	Representation		Self-Rule
						Assembly	Executive	
Provincias	1950–1995	1	0	0	0	0	0	1
	1996–2018	0	0	0	0	0	0	0
Territorios indígenas	1977–2018	2	1	0	0	2	2	7

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