



Ecuador

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Ecuador is a constitutional republic with a 123-member unicameral legislature that was chosen in free elections in May 1998. On January 21, members of the military joined protesters, including indigenous dissidents, to force President Jamil Mahuad from office. After a brief period of confusion and the proclamation of a "People's Parliament" by the coup leaders, on January 22, Vice President Gustavo Noboa assumed the presidency and restored order. At the end of May the Government extended a full amnesty to all those who participated in the overthrow of Mahuad. The judiciary is constitutionally independent, but in practice is inefficient and susceptible to outside pressure.

The military enjoys substantial autonomy, reinforced by assured revenues from the country's oil exports, as well as from civil aviation, shipping, and other commercial sectors. The National Police are responsible for domestic law enforcement and maintenance of internal order and fall under the civilian Ministry of Government and Police. In early January, then-President Mahuad declared a state of emergency, which gave him the power to use troops to monitor and react to public protests. The state of emergency lasted 1 month in most of the country, and until March in Guayas province. Throughout the year, the military continued to supplement the police on an ad hoc basis. Some military officers were forced to resign for their role during the events of January 21, despite the blanket amnesty. The police and, in some isolated cases, members of the military, continued to commit abuses.

The economy is in a severe economic recession, although it began to improve slightly during the year. The economy is based on private enterprise, although there continued to be heavy government involvement in key sectors such as petroleum, utilities, and aviation. The principal exports are oil, bananas, shrimp, and cut flowers, which are the country's leading sources of foreign exchange. Most citizens are employed in the urban informal sector or as rural agricultural workers; rural poverty is extensive, and underemployment is high. According to a 1999 study, approximately 62 percent of citizens live in poverty and 15 percent are indigent, with an almost total lack of resources. By the end of 1999, the incomes of approximately 56 percent of households were below the poverty line. The per capita gross domestic product (GDP) of \$1,053 provided most of the population with a low standard of living during the year. Per capita GDP was \$1,101 in 1999. In response to the recession, the Government announced in January that the country would adopt the U.S. dollar as its national currency and completed that process in September. Inflation for the year was 91 percent.

The Government's human rights record was generally poor in a number of areas, and serious problems remain. There were credible reports that police committed extrajudicial killings. Police tortured and otherwise mistreated prisoners and detainees, usually with impunity. Prison conditions remained poor. In August a law went into effect that is expected to either free or reduce the sentences of approximately 2,900 prison inmates for humanitarian reasons. Persons often are subject to arbitrary arrest and prolonged detention is a problem. Once incarcerated, persons may wait years before being convicted or acquitted. More than one-half of the prisoners in jail have not been sentenced formally. The Government failed to prosecute and punish human rights abusers. The most fundamental human rights abuses stem from shortcomings in the politicized, inefficient, and sometimes corrupt legal and judicial system. The Government infringed somewhat on press freedom and some self-censorship continues. The Government declared states of emergency during the year that limited freedom of assembly and movement. Violence and pervasive discrimination against women, indigenous people, and Afro-Ecuadorians also remain problems. The Government continued to order participants in nationwide strikes back to work, and arrested striking members of the National Teachers' Union. Child labor is a problem. Mob violence and killings persist.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no confirmed reports of politically motivated killings; however, there continued to be credible reports that police committed extrajudicial killings. Through December the Ecumenical Committee for Human Rights (CEDHU) reported a total of 15 extrajudicial killings by the police, security forces, or semiofficial entities such as neighborhood brigades. However, during the same period, the Permanent Committee for Human Rights (CDH) reported 20 cases of extrajudicial killings by the same groups in Guayas province alone. (Neighborhood brigades are civic defense groups organized by the National Police to provide an anticrime presence in neighborhoods. They are not authorized to carry firearms, but often do.) In many of these instances, there was insufficient evidence to reach a conclusion as to what occurred; however, the killings sometimes exhibited a suspicious pattern.

On January 6, a crowd of residents from the evacuated town of Banos forced their way past a military roadblock in order to reoccupy their homes. (Banos had been evacuated due to the threat from a nearby active volcano.) A stray bullet fired by security forces struck and killed Edison Guato, and dozens of persons were injured during the melee (see Section 2.b.).

On May 13, in a remote northeast section of the Amazon near the Peruvian border, government security forces clashed with a previously unknown armed group calling itself the Revolutionary Armed Forces of Ecuador--Defenders of the People (FARE-DP). Two of its members were killed and five others were wounded and/or captured, including their purported leader, "Alex." The authorities later maintained that the FARE-DP was criminal in nature and linked the group to a series of kidnaping and murder cases.

In Guayaquil on May 31, Guayas Transit Commission police reportedly shot 24-year-old civil engineer Cesar Matute nine times and killed him. Matute apparently failed to stop his truck at a police roadblock, thinking it was set up by robbers. The authorities suspended officers Alfonso Peasantes and William Jimenez. After an investigation by the fourth district police court, the two officers were exonerated and reinstated.

On June 5, in Guayaquil Special Operations Group police confronted a group of criminals that they were pursuing and killed seven persons; eight others reportedly escaped. Police stated that the robbers were armed heavily and strongly resisted arrest.

On August 28, in Portoviejo, police surprised 19 armed robbers attempting to hold up a local bank. Eleven of the gunmen were killed during the shootout and 8 escaped. Three policemen also were wounded. Police stated that all of the suspects refused to surrender. There was no investigation of the incident.

Also on August 28, in Guasmos Sur, members of an army patrol shot and killed Sergeant Carlos Lemos as he allegedly fled from them. Officials reported that Lemos had escaped 12 days earlier from a jail at the 5th Army Engineers headquarters where he was being held pending an investigation into the theft of rifles from an armory in Esmeraldas. Lemos's lawyer and his family dispute the official version of events and claim that he was tortured and murdered. No official inquiry had been made by year's end.

On December 4, 60-year-old Josefina Rios Murillos died after apparently being thrown from a police vehicle in Guayaquil. Her family said that the city's recent "greater security campaign" had increased police brutality, and it has charged that Rios was struck on the head before being thrown out of the patrol car. At year's end, the case was under investigation.

On February 9, the bodies of two men were found in different parts of Guayaquil. One was identified as a security guard mysteriously killed at a business from which nothing was stolen; the other was an unidentified individual whose corpse was dumped along the highway that circles the city. There have been other unsolved murders along this highway; for example, in May the bodies of John Merchan and Jacobo Moreira were found there--both had long criminal histories. Other bodies found on the highway include: On June 21, Adolfo Perez; on June 23, Francisco Pazmino; and on July 27, Angel Pacucar. Seven other bodies of suspected criminals also were found on the highway over a 4-day period in September. Some human rights groups suspect police involvement in these killings, but no investigation had been undertaken by year's end.

In January a police court inquiry into the March 1999 killing of 14-year-old Mickey Mendoza concluded; the court charged policeman Carlos Alberto Iturralde Salazar with unintentional homicide. The court ruled that he had failed to maintain proper control of the weapon, which apparently went off when Mendoza tried to grab the gun. Iturralde was confined to police barracks pending trial. On January 13, the Mendoza family filed a dissent with the court asking that the second policeman on the scene also be tried, and that five policemen whom they

believe conspired to cover up the incident be charged as accomplices. The charges were increased and, on July 17, Iturralde was found guilty of simple homicide; however, he was transferred to Cuenca and returned to full duty status pending the court's issuance of a final decision. Late in the year, the authorities arrested Iturralde and jailed him pending the outcome of a sentencing hearing. Iturralde faces a sentence of up to 8 years' imprisonment; however, the Mendoza family believes that the killing was premeditated and is seeking additional charges that would carry a longer sentence.

A court dismissed the case against Carlos Alulema, a policeman who shot and killed a cigarette vendor in July 1999 in Guayaquil, on the grounds that the policeman was drunk and not responsible when he committed the crime. No information was available about the investigation into the killing by two police officers of Richard Morales Cabrera in November 1999 in Guayaquil, a shooting that also wounded several other persons.

The investigation continued into the February 1999 killing of Jaime Hurtado Gonzalez, an Afro-Ecuadorian member of Congress from the far-left Popular Democratic Movement (MPD) party; Pedro Tapia (Hurtado's alternate in the Congress); and Wellington Borja near the Supreme Court in Quito. The killings bore the hallmarks of a professional "hit," and the authorities have brought charges against several suspects, including police officers and a former police informant, in the killings. Several suspects were jailed and convicted, and their appeals were denied; at year's end, the investigation was still active.

There has been no disposition of the November 1998 kidnaping and killing in Quito of Saul Filormo Canar Pauta, a leader of the Ecuadorian Confederation of United Working Class Organizations. In December 1998, a municipal worker found Canar's body in a trash dump. His hands and feet were tied and his body showed signs of torture. The authorities suspect that he may have been killed by private landowners in retaliation for his activities organizing land invasions by squatters.

There also were instances in which citizens took the law into their own hands, inciting mob violence that resulted in lynchings and burnings of suspected criminals (see Section I.e.). Mobs killed at least 14 crime suspects in the first 11 months of the year; individual lynchings continued to occur in all parts of the country, especially in indigenous communities in remote areas of the highlands. For example, on August 13, in the indigenous community of Quilla Silla in Azuay province, local residents beat three men whom they accused of cattle rustling. As a result, 22-year-old Jorge Guanuci died, and two of his companions were injured seriously before firemen from a nearby town intervened.

Government officials reported the killings of 20 persons in the town of Lago Agrio during November and December. Most were killed execution-style as the result of conflicts between rival Colombian groups who had entered the country. In addition, in December another five persons were killed while travelling on a public bus outside of Lago Agrio when unidentified criminals blew up a section of the oil pipeline.

b. Disappearance

There were no reports of politically motivated disappearances.

Criminal kidnaping for profit continued to be a problem. By mid-year the police antikidnaping unit reported 8 kidnaping cases and another 56 possible cases. On October 12, an unidentified armed group kidnaped a group of 10 oil workers near Pompeya, in Orellana province. The Government launched a major operation to find the victims and to investigate the perpetrators of this act. At year's end, eight oil workers still were being held.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture and similar forms of intimidation and punishment; however, the police continued to torture and abuse suspects and prisoners, usually with impunity. Reports of abuse increased.

The CEDHU published detailed reports on suspects who reported being tortured by specific policemen. By December the authorities had registered 33 complaints of some form of torture by security forces. In most cases, the police appeared to have abused such persons during investigations of ordinary street crime. The victims reported that the police beat them, burned them with cigarettes, applied electric shocks, or threatened them psychologically. By year's end, human rights nongovernmental organizations (NGO's) had received at least 135 reports of incidents involving physical mistreatment.

For example, on January 29, near Milagros, an 18-year-old woman accepted a ride and a drink from policeman Freddy Veloz. She later awoke from a state of unconsciousness in a remote area after having been raped. The woman lodged a formal complaint in court, but there was no disposition in the case by year's end.

On March 2, in Guayaquil, off-duty CTG Corporal Miguel Noriega, in an inebriated state, shot and wounded Anabel Villegas in the hand and leg. Noriega subsequently was arrested, and the case was pending at year's end.

On August 24, in Guayaquil, police shot and wounded off-duty fireman Xavier Barriero, in a case of mistaken identity. Once police discovered their mistake, they then left the scene without providing any assistance to Barriero. Eventually, the police admitted their error and paid his medical bills.

Police corruption is a problem throughout the country. During the year, the police in Guayaquil dismissed 20 police officers for various reasons that included corruption.

Conditions in prisons and detention centers generally continued to be poor. Prisons in the tropical coastal areas tend to be worse than in the temperate highlands. For example, the Tomas Larrea prison in Portoviejo was built in 1930 to hold 150 inmates, but its current population exceeds 300. It has never been repaired or expanded and has many tunnels, which have contributed to some of the 30 successful escapes since 1970. Overcrowding also is a chronic problem elsewhere. There are no separate facilities for hard core or dangerous criminals, nor are there effective rehabilitation programs. New prisons have not been constructed due to lack of financial resources.

The Constitution requires that prisoners charged with lesser offenses (those carrying a maximum sentence of 5 years or less) and who have been detained for more than 1 year without a sentence obtain their freedom immediately. In January the National Directorate for Social Rehabilitation (DNRS) reported that 553 inmates had been released since the provision entered into force. On August 18, a law went into effect that is expected eventually to free or reduce the sentences of 2,947 prison inmates for humanitarian reasons.

In September 1999, the DNRS published a report that indicated that there were a total of 8,520 inmates incarcerated in facilities originally designed to hold a population of 5,964 prisoners. In 1998 a total of 26 inmates died in prison. The report stated that traumatic injuries, reportedly inflicted by fellow inmates, caused 65 percent of those deaths. It attributed the others to illness and drug use. The prison authorities routinely investigate deaths in custody. During the year, a number of prisons experienced serious outbreaks of disease, including meningitis.

In September 1999, women represented 9.5 percent of the total prison population. Women are held separately from men, and conditions are notably better in the women's prison in Quito than in other facilities. There also are separate facilities for juveniles.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution and the Penal Code provide that no one may be deprived of liberty without a written order from a governmental authority; however, the authorities often violate these legal protections in practice, and arbitrary arrest and detention remain problems. For example, on January 28, in Azuay, the authorities arrested Maria Guatama, her daughter, and granddaughter; they spent a night in jail without any formal charges. The incident was traced to a disgruntled neighbor who apparently had friends on the police force. The family's release most likely was due to the fact that they could afford a lawyer.

The law requires the authorities to issue specific written arrest orders within 24 hours of detention--even in cases in which a suspect is caught committing a crime--and the authorities must charge the suspect with a specific criminal offense within 48 hours of arrest. All detained persons may challenge the legality of their detention by petition within 48 hours of their arrest, but in practice few such petitions are brought forward. The senior elected official (usually the mayor) of the locality in which the suspect is held reviews any such petitions. Regardless of the legality of a detention, a prisoner may be released only by court order. In some cases, detainees who are unaware of this, or who do not have the funds to hire a lawyer, may remain in prison for an extended period of time before being released. Bail generally is not available, and the law prohibits it in narcotics and major offense cases. Families of detainees sometimes attempt to secure the prisoners' freedom through illegal means.

Human rights organizations continued to report occasional cases of incommunicado detention, although the law prohibits this practice. Even when the police obtain a written arrest order, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges. Preventive detention up to and

including trial is legal if a judge determines that it is necessary and if evidence that a crime has been committed is presented.

As in the previous year, the authorities in Guayas Province arrested scores of persons under a state of emergency that was imposed from January until May. The measure was imposed to stem a soaring crime rate (584 persons died in violent crimes in the city of Guayaquil in 1999, and 104 kidnaping cases were registered.) The police often arrested persons on mere suspicion or for lack of proper identification; they released most of them a few days later.

The Constitution prohibits forced exile, and the Government does not use it as a method of political control.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice the judiciary is susceptible to outside pressure and corruption. Despite efforts begun in 1992 to depoliticize and modernize the court system, the judiciary continues to operate slowly and inconsistently. Judges reportedly rendered decisions more quickly or more slowly depending on political pressure, or in some instances, the payment of bribes. There are lengthy delays before most cases come to the courts.

The judiciary is composed of the Supreme Court, superior circuit courts, other courts and tribunals that hear cases in accordance with the Constitution and other laws, and the Judicial Council. There also are military and police tribunals that have the same status as circuit courts, while criminal, provincial, and cantonal courts serve as courts of first-instance.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions, in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court does not announce verdicts or punishments, reinforcing the strong impression that the police are immune from prosecution. The 1998 Constitution placed both police and military justice under the control of the Supreme Court. However, the three systems have not yet been integrated.

The Supreme Court that took office in 1997 publicly recognized the shortcomings of the judicial system and pledged to improve the quality and training of judges. In May 1998, the Supreme Court supervised the selection by open competition of all appellate judges. A Judicial Council, charged with administering the court system and disciplining judges, took office in the fall of 1998. In November 1999, the Council's disciplinary committee fired two judges and two court employees for their role in the release of suspected drug traffickers. All four faced criminal charges. During the year, the Judicial Council removed at least two judges and a number of minor officials from their jobs.

The failures of the justice system contributed to a growing number of cases in which communities took the law into their own hands. There continued to be reports of lynchings and burnings of suspected criminals by outraged citizens (see Section 1.a.). These occurred particularly in indigenous communities and poor neighborhoods of major cities where there is little police presence.

The law provides for internationally accepted due process rights for criminal defendants, but the authorities, including the Chief Prosecutor's office, often did not observe these rights in practice. By law, the accused is presumed innocent until proven guilty and defendants have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and confront and cross-examine witnesses. Although a public defender system exists, in practice there are almost no attorneys available to defend the large number of indigent suspects.

Trial is supposed to begin within 15 to 60 days of the initial arrest; however, in practice initiation of the trial phase can take years. Less than 40 percent of all those incarcerated have been convicted and sentenced. Accused narcotics traffickers and suspects in major crimes cannot obtain bail or be released on their own recognizance.

In November 1999, Congress passed a new Criminal Procedures Code. Then-President Mahuad proposed changes in December 1999, which Congress accepted in January. The code is scheduled to take effect in July 2001, and is intended to change the criminal justice system from an inquisitorial to an accusatorial-style system. The Chief Prosecutor's office is to investigate and prosecute crimes, while the role of judges is to change to that of neutral arbiters presiding over oral trials. The new code is a step toward implementation of provisions in the 1998 Constitution intended to strengthen the justice system by improving due process and

enhancing the rights of the accused, through measures such as habeas corpus and limits on preventive detention.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech, and the authorities generally respected this provision in practice; however, there were some notable exceptions. There are frequent charges of slander and libel brought by and against public figures, but few result in final decisions or judicial relief. On April 19, the President of Congress announced that press coverage of congressional proceedings would be restricted to an audio broadcast; following vigorous protest by the press, which formerly had enjoyed wide access to Congress, he announced that separate areas would be set aside for live coverage of sessions. Some self-censorship continues.

There is a free and vigorous press. Ownership of the media is broadly based, and editorials represent a wide range of political views and often criticize the Government. However, some degree of self-censorship in the print media occurs, particularly with respect to politically sensitive issues or stories about the military and its related industries. In addition, most elements of the media were influenced by economic considerations and tend to reflect the narrow, regional interests of their owners.

All of the major media organs--newspapers, radio, and television--are locally and privately owned, except for one government-owned national radio station. The law limits foreign investment in broadcast media. Using a law promulgated by the last military regime that requires the media to give the Government free space or broadcast time, the Government can and does require television and radio to broadcast government-produced programs featuring the President and other top administration officials.

On February 16, in Guayaquil, Rafael Cuesta, the news director of the Tele Centro television station was injured severely by a bomb contained inside a videocassette. Congresswoman Cinthya Viteri and indigenous leader Marco Murillo also received videocassette bombs in the mail; however, because of the Cuesta incident they were suspicious and alerted the police, who defused the devices. Police were unable to discover who sent the bombs.

Near the end of the year, the mayor of Guayaquil banned a guidebook that contained negative comments about the city.

The Constitution provides for academic freedom, and the Government does not interfere in issues involving academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of free assembly for peaceful purposes, and the Government generally respected this right in practice; however, there were some limits. In February President Noboa decreed a nationwide state of emergency that lasted until March and limited freedom of assembly. Public rallies require prior government permits, which generally are granted, although exceptions occur. In January protesters took over the congressional building and, joined by military leaders, forced the resignation of President Mahuad (see Section 3). Numerous other labor and student demonstrations took place without major incident in the capital and the outlying regions during the year. Protesters often blocked roads. On January 6, police in Quito and Guayaquil arrested 46 protesters, and in Quito 1 student was shot and injured; some protesters were armed, and the police denied responsibility. In general the security forces intervened in demonstrations only when there was violence against bystanders or destruction of property. Police in Quito used tear gas in January, March, and September to repel demonstrators who sought access to the city center (see Section 6.a.). Police also used tear gas against protesting members of the National Teachers' Union. On April 17, members of the Evangelical Indigenous Movement (FEINE) and the Federation of Indians, Campesinos, and Blacks (FENOCIN) occupied the Government's Indigenous Affairs Office.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. The Government does not require religious groups to be licensed or registered unless they form NGO's that engage in commercial activity. Approximately 90 percent of the population consider themselves to be Roman Catholic, although most citizens do not regularly practice the religion or follow a syncretistic version that combines indigenous beliefs with orthodox Catholic doctrine. The Government allows missionary activity and religious demonstrations by all religions. The Government does not permit religious instruction in public schools; private schools are permitted to teach religion, as are parents in the home. There are no restrictions on publishing religious materials in any language. In early 1998, police in Pinchincha suspended the meetings of a group known as "Gnostico Cristiano Universal," following the suicide of 29 members of the "Heaven's Gate" cult in California, while they investigated possible links between the two groups. The Government's investigation was inconclusive, and the groups have resumed their activities.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respects them in practice; however, frequent military and police roadblocks often present problems for travelers using public transportation, especially at night. The Government requires all citizens to obtain exit visas when travelling abroad, which are granted routinely. Military and minor applicants must comply with special requirements.

The law includes provisions for granting refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The issue of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

According to the UNHCR, since September approximately 1,600 Colombian refugees arrived in the country, most of whom fled due to fighting between guerrillas and paramilitary forces in the Colombian department of Putumayo. The Government and the UNHCR have developed a three-point contingency plan to cope with the refugee influx into Sucumbios province. In November nine persons occupied offices of a Catholic Church in Quito that worked with the UNHCR to screen and register refugees. The occupation ended peacefully after 48 hours.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage; however, on January 21, members of the military joined protesters, including indigenous dissidents, to force President Jamil Mahuad from office. After a brief period of confusion during which the leaders of the coup announced the dissolution of the three branches of government and the formation of a "People's Parliament," on January 22, Vice President Gustavo Noboa assumed the presidency and restored order.

On January 19, approximately 6,000 persons including members of the Confederation of Ecuador's Indian Nationalities (CONAIE), students, and leftwing political protesters marched in Quito. On January 21, thousands of protesters, including members of CONAIE, students, teachers, and union members, occupied and took control of the congressional building in Quito. The police and military guarding the building did not oppose the occupation with force, and over 100 soldiers joined the protesters. CONAIE leader Antonio Vargas announced on television from the floor of Congress that he would head the People's Parliament. He also said that retired army Colonel Lucio Gutierrez would join him in a new "ruling junta" as the executive, and that former Supreme Court President Carlos Solorzano would take over the role of Supreme Court President. The protesters called for President Mahuad to resign. (There also were protests in Guayaquil, where a group of students, unionists, and neighborhood associations seized the provincial government building.)

President of Congress Juan Jose Pons described the small military group that joined the protests as "seditious" and called for support for the democratically elected Government. Mahuad then spoke on television and refused to resign. On the afternoon of January 21, the armed forces service chiefs and joint staff chief General Carlos Mendoza called for the President to resign. Mahuad resisted the call to resign but later fled the palace. The junta (also called the "triumvirate") originally was composed of Vargas, Solorzano, and Colonel Gutierrez. Later during the night of January 21, at the palace, General Mendoza briefly joined the junta,

replacing Colonel Gutierrez. On January 22, President Mahuad appeared again on television and accepted Vice President Gustavo Noboa as president; on the same day, Congress ruled that Mahuad had deserted his post. With Noboa's assumption of office, order was restored.

On January 22, Congress sanctioned two of its members--Democratic Left representatives (and former army generals) Paco Moncayo and Rene Yandun--for their role in the coup and removed them from their seats in the Congress.

On February 4, General Norton Narvaez, the head of the armed forces, announced that a military court had found 113 soldiers, 17 of whom were in jail, guilty of breach of discipline and breaking their oath for taking part in the coup. They were put on administrative leave and confined to barracks. General Mendoza resigned.

On May 31, Congress approved an amnesty for army officers involved in the coup, and those held in prison were released. On June 5, the 17 most senior imprisoned officials were placed on 48-hour administrative leave. Colonel Gutierrez served 4 days in jail for a "breach of discipline," i.e., for his interviews with the press. On June 12, the military forced Colonel Gutierrez and 11 other officers to resign despite the blanket amnesty.

On July 13, Supreme Court President Galo Pico issued arrest warrants for former President Mahuad and his former finance minister for crimes in connection with the freezing of bank assets in March 1999.

Voting is mandatory for literate citizens over 18 years of age and voluntary for illiterate citizens. The law does not permit active duty members of the military to vote. The Constitution bars members of the clergy and active duty military personnel from election to Congress, the presidency, or vice presidency. The Constitution provides that if a political party fails to garner a minimum of 5 percent of the votes in two open elections, the party must be eliminated from the electoral registry.

In August a dispute arose over who had the right to be elected president of Congress. After a Constitutional Court ruling forced Susana Gonzalez from office following a challenge, Hugo Quevedo was elected. He later defeated a challenge to his own election and remained in office at year's end.

No specific laws prevent women or minorities from attaining leadership positions; however, few women, indigenous people, or Afro-Ecuadorians occupy senior positions in government. Women are underrepresented in politics and government, although they have made gains in recent years. Women hold 17 of 123 seats in Congress, the largest proportion of seats held by women in the country's history. There is one female cabinet minister.

The indigenous movement, which previously shunned traditional politics, formed an electoral movement called Pachakutik (which means "cataclysmic change" in Quichua) and ran candidates for national, provincial, and local office in the 1996, 1998, and 2000 elections. A Pachakutik Congresswoman, Nina Pacari, formerly the Second Vice President of Congress, is part of an eight-member congressional bloc whose cooperation with the majority in Congress on some issues has ensured it significant influence. The politically active Confederation of Ecuador's Indian Nationalities, headed by Antonio Vargas, was at the forefront of protests that overthrew then-President Mahuad. Indigenous members of the National Constituent Assembly and their supporters won important constitutional protections for indigenous rights in the 1998 Constitution. There are 3 indigenous deputies serving in the 123-member Congress.

One Afro-Ecuadorian serves as a member of Congress, but none are found in senior-level government jobs.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operate without restriction, investigating and publishing their findings on human rights cases. Domestic human rights groups, such as the CEDHU and the regional Latin American Human Rights Association (ALDHU), were outspoken in their criticism of the Government's record on specific cases. Nevertheless, the Government contracted with the ALDHU to provide human rights training to the military and the police.

The office of the Ombudsman was created in 1998 to ensure ongoing attention to human rights problems; however, some observers have criticized its independence in practice. In May Congress removed the Ombudsman from office on charges of fraud for acts that he committed while he was acting Attorney General. As of year's end, Congress had not named a replacement, and Claudio Mueckay was acting Ombudsman at year's end.

In 1998 the Government decreed an ambitious National Human Rights Plan with the goal of preventing, penalizing, and eradicating human rights violations in the country. The three branches of government, as well as the independent Ombudsmen's office and a number of NGO's, contributed to development of this plan. At the end of 1999, the U.N. had contributed \$1.2 million to support the plan. The plan includes education for the Congress on human rights matters. The Government began to implement various aspects of its plan, including seminars, publishing documents, and a contingency plan for refugees.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, religion, sex, or social status. In addition, the constitutional reforms explicitly increased the rights of women, children, and minorities, and required Congress to pass legislation implementing these rights promptly. However, women, indigenous people, and Afro-Ecuadorians continue to face significant discrimination.

Women

Although the law prohibits violence against women, including within marriage, it is a widespread practice. The 1995 Law Against Violence Affecting Women and Children criminalized spousal abuse, including physical, sexual, and psychological abuse; created family courts; and reformed the Penal Code to give courts the power to separate an abusive spouse from the home. Although nationwide statistics were not available, according to an NGO in Guayaquil, that city registered more than 32,000 official complaints of domestic violence between May 1998 and May 1999, almost double the previous period's figure. The NGO's report also said that one out of three women suffered from some form of domestic violence. Women may file complaints against a rapist or an abusive spouse or companion only if they produce a witness. Many rapes also are not reported due to the victims' reluctance to confront the perpetrators. The penalty for rape is a jail sentence of up to 16 years. In cases of statutory rape involving "amorous" sex with a minor, if the rapist marries the victim the charges against him, or anyone else who took part in the rape, cannot be pursued unless the marriage subsequently is annulled. While some communities have established their own centers for counseling and legal support of abused women, the Government only began to address this problem seriously with the 1994 formation of the Women's Bureau. Although this office can accept complaints about abuse of women, it has no authority to act on the complaints. However, the Women's Bureau has doubled the number of its outreach offices and actively referred abuse cases to prosecutors.

Sexual harassment in the workplace is common.

Adult prostitution is legal.

Discrimination against women is pervasive in society, particularly with respect to educational and economic opportunities for those in the lower economic strata. The increasingly active women's movement alleges that culture and tradition inhibit achievement of full equality for women. There are fewer women than men in the professions and skilled trades, and pay discrimination against women is common.

The Ecuadorian Women's Permanent National Forum, founded in 1994, includes more than 320 women's organizations and promotes social, economic, and cultural change through various methods, including increasing political participation by women. In addition the National Women's Council provides support for approximately 500 women's organizations, many of which promote social consciousness and greater participation by women in the political process. The Women's Political Coordinator, an NGO that operates in 17 provinces, promotes similar themes relating to women's rights, with an emphasis on political participation and human rights. It also focuses on young women and Afro-Ecuadorian women.

Children

According to the National Statistics Institute, in 1999 approximately 47 percent of the population was under the age of 18. The Government has not taken effective steps to promote the welfare of children. The Constitution requires that children achieve "a basic level of education," estimated at 9 years of school; however, the Government rarely enforces this requirement in practice (see Section 6.d.). Education is free.

There is no societal pattern of abuse against children. Government resources to assist children traditionally have been limited, although the Government operates a program to care for the children of the working poor called "Operation Child Rescue." The Inter-American Commission on Human Rights has concluded that this program reached only a small percentage of those affected. Approximately 45 percent of children under the age of 5 are malnourished. Government spending on education continued to decline, both in real terms and as a proportion of GDP. There are more than 20 NGO's that promote child welfare.

Several private organizations are very active in programs to assist street children, and UNICEF also runs a program in conjunction with the Central Bank. The children of the poor often experience severe hardships, especially in urban areas. Children as young as 5 or 6 years of age often sell newspapers or candy on the street to support themselves or to augment family income. Also, there are reports of prostitution by girls and boys under 18 years of age in urban areas, and there have been reports of cases in which children were forced into prostitution. In rural areas, young children often must leave school at an early age to help out on the family's plot of land.

People with Disabilities

There is no official discrimination against disabled persons in employment, education, or the provision of other state services. However, there are no laws to ensure disabled persons access to public buildings or services, nor are they provided any other special government assistance. In June the city of Guayaquil began a modest program to give the disabled better access to public buildings.

Indigenous People

While at least 85 percent of all citizens claim some indigenous heritage, culturally indigenous people make up about 15 to 20 percent of the total population. The vast majority live in rural areas, including the highlands and the Amazonian provinces, and most live in varying degrees of poverty. Land is scarce in the more heavily populated highland areas where high infant mortality, malnutrition, and epidemic disease are common. Electricity and potable water often are unavailable. Although the rural education system is seriously deficient, many indigenous groups participated actively with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The Constitution recognizes the rights of indigenous communities to hold property communally, to administer traditional community justice in certain cases, and to be consulted before natural resources are exploited in community territories. Indigenous people also have the same civil and political rights as other citizens. In the Amazon area, indigenous groups have lobbied the Government, enlisted the help of foreign and domestic NGO's, and mounted protests (including kidnaping oil workers and tourists), in their attempts to win a share of oil revenues and a voice in exploitation and development decisions. The Constitution expressly recognizes the indigenous communities' rights to be consulted on, but not to approve, oil exploration and development. Oil companies have increased their efforts to minimize the environmental and social impact of their oil projects in the Amazon but continue to face criticism from indigenous groups that environmental damage still is occurring.

Despite their growing political influence and the efforts of grassroots community groups, which were increasingly successful in pressuring the central Government to assist them, Indians continue to suffer discrimination at many levels of society. With few exceptions, indigenous people are at the lowest end of the socioeconomic scale. For example, by one UNICEF estimate in 1999, 83 percent of indigenous children worked at some kind of job (see Section 6.d.).

CONAIE was at the forefront of protests that toppled President Mahuad (see Section 3). It also has arranged a popular referendum and public demonstrations to protest government economic austerity measures and to urge the repeal of economic modernization laws involving privatization of state-owned enterprises.

Religious Minorities

Although relations between religious communities generally have been amicable, in past years there have been a few incidents of interreligious or intrareligious tension or violence.

A Baptist clinic in the town of Chachas is operating normally, following opposition to its establishment from local residents in April 1999.

National/Racial/Ethnic Minorities

The population of the rural, northern coastal area includes large numbers of Afro-Ecuadorian citizens. They suffer widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity. There are no special government efforts to address these problems.

There are five major Afro-Ecuadorian organizations active in the country; the largest is the Confederacion Nacional Afroecuatoriana, with headquarters in Quito. It estimates that Afro-Ecuadorians account for more than 1 million persons, or about 10 percent of the total population. While the presence of Afro-Ecuadorians has

grown in the fields of sports and culture, their educational opportunities continue to be limited.

The press has focused on lingering racism among all strata of society. Afro-Ecuadorian organizations note that despite the absence of official discrimination, societal discrimination continues to affect them. For example, they assert that the police stop Afro-Ecuadorians for document checks with greater frequency than other citizens.

Section 6 Worker Rights

a. The Right of Association

The Constitution and Labor Code provide most workers with the right to form trade unions. Members of the police, the military, and public sector employees in nonrevenue producing entities are not free to form trade unions. The 1991 Labor Code reforms sets the number of workers required for an establishment to be unionized at 30, which the International Labor Organization's Committee on Freedom of Association considers too stringent a limitation at the plant workers' council level. Although the Congress debated additional labor reforms, labor law was in flux at year's end because the Constitutional Court ruled that some recent labor legislation was unconstitutional. The court's ruling nullified several articles that the Government stated provided flexibility to employers, but that some observers claimed undercut constitutional protections of worker rights.

While employees of state-owned organizations enjoy rights similar to those in the private sector, the law technically prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. However, most public employees maintain membership in some labor organization, and there are frequent "illegal" strikes. Despite official threats, the Government rarely takes action against striking public workers. However, in May the Government ordered striking teachers back to work and arrested and temporarily jailed National Teachers' Union (UNE) leaders. A November 1997 law prohibits public sector strikes if they paralyze key services, including schools.

Although the labor confederations are politically independent, the two largest single labor unions, the UNE and the Union of Social Security Workers, are allied with the Democratic Political Movement, a communist party. Approximately 12 percent of the work force is organized. There are four large labor centrals or confederations. None of the main labor centrals is connected firmly to any one political party, and there are no ties between the Government and any labor union.

There are few restrictions on the right of workers to strike, although a 10-day cooling-off period is required before a strike can be declared. The Labor Code revisions limit solidarity strikes or boycotts to 3 days, provided that the Labor Ministry approves them. In a legal strike, workers may take possession of the factory or workplace, thus ending production at the site, and receive police protection during the takeover. The employer must pay all salaries and benefits during a legal strike; the Labor Code protects strikers and their leaders from retaliation.

There were several significant strikes during the year, mainly in response to government austerity measures. They involved public sector employees such as teachers and social security and medical workers, as well as petroleum, electricity, and transportation workers; indigenous groups also protested during the strikes. Police in Quito used tear gas in January, March, and September to repel demonstrators who sought access to the city center (see Section 2.b.). In April public sector bureaucrats went on strike to demand higher wages. In May the Public Teachers Union (UNE) began a countrywide strike for higher wages, and a judge issued an arrest warrant for Arcelly Moreno, the president of the UNE. The strike lasted more than 2 months; some striking teachers were detained for as long as 10 days. In December health workers held a strike for 2 weeks.

Unions may freely form and join federations or confederations, and three of the large labor centrals maintain international affiliations.

b. The Right to Organize and Bargain Collectively

The labor market is highly segmented, with a minority of workers in skilled, usually unionized, positions in state-run enterprises or in medium to large industries. Most of the economically active population is employed in the agricultural sector or the urban informal sector; the vast majority of these workers are not organized. The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests. Collective bargaining agreements cover only one-quarter of the approximately 12 percent of the work force that is organized. In March a new labor law allowed businesses to hire workers on "individual contracts," but the practice did not become prevalent because Congress was reconsidering the law at year's end.

The Labor Code streamlined the bargaining process in state enterprises by requiring workers to be represented by only one labor union. It prohibits discrimination against unions and requires that employers provide space for union activities upon the union's request. The law does not permit employers to dismiss a worker without the express permission of the Ministry of Labor, whose rulings are not subject to judicial review. If the Ministry of Labor rules that a dismissal is unjustified, it can require the employer to pay large indemnities or separation payments to the worker, although the reforms set a cap on such payments. A fired worker is eligible for reinstatement and in general would not be blacklisted at other companies. Workers generally are protected against antiunion discrimination only by pressure from the union. The Labor Code provides for resolution of labor conflicts through an arbitration and conciliation board which consists of one representative of the Ministry of Labor, two from the union, and two from management.

The 1990 Maquila Law permits the hiring of temporary workers for the maquila (in-bond processing for export) industries only. While there is no express prohibition on association rights in the Maquila Law, in practice it is difficult to organize temporary employees on short-term contracts. Since temporary workers are not recognized by the Labor Code, they do not enjoy the same level of protection offered to other workers. The maquila system allows a company and its property to become an export-processing zone wherever it is located. Many such "zones" have been established; most are relatively small and are dedicated to textiles and fish processing.

c. Prohibition of Forced or Compulsory Labor

The Constitution and the Labor Code prohibit compulsory labor, and there were no reports of it in general. There have been reports of children forced into prostitution (see Section 5), but there were no other reports of forced or bonded labor by children.

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

The law prohibits boys younger than 12 years old and girls younger than age 14 from working, except in special circumstances such as apprenticeships. It requires children between the ages of 12 or 14 and 18 years to have the permission of their parent or guardian to work. The law also prohibits children between the ages of 14 and 18 years from working more than 7 hours per day or 35 hours per week, and it restricts children below the age of 14 years to a maximum of 6 hours per day and 30 hours per week. In practice the Ministry of Labor fails to enforce child labor laws, and child labor is prevalent. The problem has increased in recent years due to the prolonged economic crisis, and urban child labor has increased with the migration of the rural poor to the cities. A UNICEF report estimated that in 1997, 37 percent of the 2.1 million children between the ages of 10 and 17 worked; in 1999 almost 1 out of 2 children in this age bracket worked. A 1999 report based on a joint national and World Bank study found that 45 percent of children between the ages of 10 and 17 worked at least part-time. Among children aged 10 to 11, who cannot work legally, 28 percent worked at least part-time nationwide. More than 60 percent of all children live in rural areas and do unpaid agricultural work for their families.

The Constitution provides that children must attend school until they attain a "basic level of education" estimated at 9 school years. However, due to the lack of schools in many rural communities, the Government's failure to provide adequate resources, and the need for children to work, this provision rarely is enforced. UNICEF reported in 1999 that one out of three children did not remain in school long enough to complete the 6th grade. The Constitution provides that 30 percent of the public budget must be devoted to education; however, in practice only half of that amount is spent. The Government has programs in 18 urban areas that provide families with educational subsidies as an incentive to keep children in school. In rural areas, many children attend school only sporadically after about 10 years of age in order to contribute to household income as farm laborers.

In the city, many children under 12 years of age work in family-owned "businesses" in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Others are employed in commerce, messenger services, domestic service, and begging. Child prostitution is a problem, and there have been cases reported of children being forced into prostitution (see Section 5). The law prohibits forced or bonded labor by children, and there were no other reports of such practices (see Section 6.c.).

e. Acceptable Conditions of Work

The Ministry of Labor periodically sets the minimum wage in consultation with the Commission on Salaries, but Congress also may adjust it. As of August, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$110, or 50 cents per hour in the case of contract workers. The statutory minimum wage is not adequate to provide a decent standard of living for a worker and family. Most organized workers in state industries and formal sector private enterprises earned substantially more than the

minimum wage and also received other significant benefits through collective bargaining agreements. However, the majority of workers work in the large informal and rural sector without recourse to the minimum wage or to legally mandated benefits.

The Ministry of Labor has the principal role in enforcing labor laws and carries this out through a corps of labor inspectors who are active in all 22 provinces. The Labor Code provides for a 40-hour workweek, a 15-day annual vacation, a minimum wage, and other employer-provided benefits, such as uniforms and training opportunities. In March reforms to the labor law nominally gave greater flexibility to employers by hiring part-time workers, such as accountants, for only a few hours per week. However, this legislation was affected by a Constitutional Court decision (see Section 6.a.).

The Labor Code also provides general protection for workers' health and safety on the job. However, a worker may not leave the workplace of his own volition, even if there is a hazardous situation. The worker is allowed to request that an inspector from the Ministry of Labor come to the workplace and confirm the hazard; that inspector then may close down the workplace. Response time for inspectors ranges from a few days in major cities to much longer in the countryside.

The Government enforces health and safety standards and regulations through the Social Security Institute. In the formal sector, occupational health and safety is not a major problem. However, there are no specific regulations governing health and safety standards in the agricultural sector and in practice there is no enforcement of safety rules in the small mines that make up the vast majority of the mining sector. During the year, at least two fatalities were reported due to accidents in the mines.

f. Trafficking in Persons

There is a misdemeanor law that addresses trafficking in persons; it provides for penalties from 6 months to 3 years in prison, as well as fines. The Migration Law and the Penal Code provide for the imposition of sanctions on suppliers of false documents for purposes of travel or work. Other laws dealing with kidnaping, labor, occupational safety, and slavery apply to and provide sanctions for trafficking in persons. In June Congress amended the Criminal Code to strengthen sentences for furnishing or utilizing false documents and for alien smuggling. Alien smugglers or traffickers can receive sentences from 3 to 6 years' imprisonment; the penalties range from 6 to 9 years' if victims are injured, and a penalty of up to 12 years may be imposed if a death occurs. The law specifically exempts victims from prosecution. There were no confirmed reports of persons being trafficked to, from, within, or through the country against their will; however, there were many reports of persons being smuggled illegally from the country to the United States through Central America in which trafficking sometimes was suspected. In 1999 police in Spain reported that they had arrested 50 Ecuadorian women working as prostitutes who were likely victims of trafficking.

[End.]