



Ecuador

Country Reports on Human Rights Practices - [2007](#)

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Ecuador is a constitutional republic with a population of approximately 13.8 million. In November 2006 Rafael Correa won the presidency in runoff elections that were considered generally free and fair. Correa took office on January 15. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there continued to be problems in the following areas: isolated unlawful killings and use of excessive force by security forces; occasional killing and abuse of suspects and prisoners by security forces, sometimes with impunity; poor prison conditions; arbitrary arrest and detention; a high number of pretrial detainees; and corruption and denial of due process within the judicial system. Members of the National Police were accused of murder, attempted murder, rape, extortion, kidnappings, and alien smuggling. Societal problems continued, including violence against women; discrimination against women, indigenous people, Afro-Ecuadorians, and homosexuals; trafficking in persons and sexual exploitation of minors; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

Although the government or its agents did not commit any politically motivated killings, there continued to be credible reports that security forces used excessive force and committed numerous unlawful killings.

On January 6, police arrested a group of teenage boys for drawing graffiti on a wall in North Quito's El Inca sector. Police beat and later released one of the boys but kept in custody Paul Guanuna, who was last seen alive in a police car headed towards a downtown police station. On January 7, Guanuna's body was found not far from where he was originally arrested. An autopsy concluded that he died from blunt trauma to the head and a laceration of the right lung, consistent with a fall. Criminal proceedings commenced against three police officers, Geovanny Alvarez Zambrano, Eduardo Cruz Live, and Claudio Chicaiza Caiza, who were with Guanuna when he was arrested; a judge remanded them into custody, and in June the district attorney announced that they would be charged with manslaughter. After a preliminary hearing, the officers were formally charged with homicide. At year's end an appeal of the charge was pending before the Supreme Court of Quito.

On April 12, police in Manta shot and killed 19-year-old Juan Carlos Vera Faguizon after an altercation. An internal police investigation resulted in charges against police officers Reynaldo Enrique Mendoza Roldan and Carlos Rene Guanotaxi Suntaxi. At year's end the officers were in prison awaiting trial.

From January 8 to June 18, eight children and two adults in the provinces of Guayas and Los Rios were hit by stray bullets, in circumstances believed to be associated with gang violence; eight of the 10 victims died from their injuries.

An investigation into the April 2006 Cuenca killing of a student protester by a stray bullet from a police officer's gun continued at year's end. The investigation of the June 2006 killing of a taxi driver by off-duty police officer Miguel Angel Chiran also continued at year's end.

In November a military court issued judgments in the case of two military officers charged with the August 2006 killing of an indigenous medicine man in Puyo, Pastaza Province. The court sentenced Bernardo Cevantes Santamaria Cuji to 16 years' imprisonment and acquitted Santio Mucushigua.

Police officer Freddy Abel Rizzo Barzola, who was detained in connection with the 2005 killing of two detainees, was killed in jail during the year.

At year's end the Sucumbios attorney general continued investigating charges against army officers Angel Chuya, Carlos Badillo, Benito Tangamashi, and Jorge Zamora in the 2005 killings of two occupants of a vehicle in Sucumbios Province. The four officers remained in military detention.

The Ecumenical Human Rights Commission (CEDHU) reported that mob violence against suspected criminals continued at the level of the preceding year. Such violence occurred particularly in indigenous communities and poor neighborhoods of major cities, where there was little police presence.

b. Disappearance

There were no reports of politically motivated disappearances.

Criminal kidnapping for profit continued to be a problem in selected regions of the country. There were also reports of extortion and threats of kidnapping of ranchers, farmers, and businessmen along the Colombian border. As of December, police registered 357 kidnapping cases and 155 "express kidnappings" (in which a person is driven around and forced to make automatic withdrawals of personal funds) and made seven related arrests.

c. Torture and Other Cruel, Inhuman, or Degrading

Treatment or Punishment

While the constitution and laws prohibit torture and similar forms of intimidation and punishment, some police reportedly continued to torture and abuse suspects and prisoners, often with impunity.

The government had not acted on a 2005 finding by the UN Committee Against Torture that the country's laws on torture do not meet standards set by the UN Convention Against Torture, notably because the definition of torture in the criminal code, which criminalizes "corporal torment" but not psychological torture, does not correspond to the definition outlined in the convention. Torturers often were penalized with a fine rather than imprisonment.

Through December CEDHU registered 420 cases of alleged "torture" or "unwarranted physical aggression" by police forces.

In January Vicente Santana accused Quininde, Esmeraldas Province, police officers Luis Luglia and Galo Rivas of beating him without cause. He was hospitalized for his injuries. Santana claimed that police forced him to sign an affidavit stating that he was not beaten. In view of official indifference, Santana decided not to pursue charges.

On May 4, police in South Quito chased a group of teenage boys who were walking home from a party. Victor Javier Tipan Caiza, age 16, who had recently undergone surgery, was not able to run away and claimed the police beat him into unconsciousness. The internal police investigation determined that two officers were guilty of committing the crime, but at year's end no action was taken, and a criminal investigation continued.

On November 26, protesting mestizo and indigenous communities in Dayuma, Orellana Province, reportedly took over and damaged facilities of Petroecuador, the state oil company. After a determination that the protest jeopardized public safety and state petroleum revenues, on November 29, President Correa declared a state of emergency in Orellana Province, sent in the army to restore order, and invoked the law of national security, which authorizes military courts to try detainees. CEDHU reported that the armed forces illegally detained and tortured individuals, which the government denied. Violations of a military curfew resulted in more than 100 detentions; although the government stated on December 7 that all minors had been released, CEDHU reported four minors (Freddy Zambrano, Mario Zambrano, Jefferson Marcillo, and Antonio Cabal) were missing. Investigations continued at year's end.

Prison and Detention Center Conditions

Conditions in prisons and detention centers generally were poor and tended to be worse in the tropical coastal areas than in the temperate highlands.

On July 6, the government declared a 60-day state of emergency (later extended to 120 days) covering the country's 34 jails and detention centers to address infrastructure, staffing, and funding problems; during the emergency, it allocated an additional \$15 million (the U.S. dollar is the national currency) to the National Agency for Social Rehabilitation (DNRS).

Overcrowding was a chronic problem in most prison facilities. As of October, DNRS reported that 18,218 prisoners were being held in facilities designed to hold less than half that number.

A number of prisons experienced serious outbreaks of disease, and medical care often was inadequate. The daily allocation for prison rations was one dollar per inmate; prisoners often supplemented these rations by buying their own food.

The DNRS reported through November the death of 42 prisoners, including 30 from illness or unknown causes, seven from serious injury, and two suicides.

Investigations into two deaths at the Machala Prison in El Oro Province did not result in any criminal charges. CEDHU reported that Machala prison only had 30 guards, while the prison population warranted having at least 70 guards. As of September, there were 450 inmates at Machala Prison, which had a design capacity for 150.

On April 20, prisoners Juan Carlos Alava Chavez and Israel Mariscal Vasquez were found dead at Coastal Penitentiary Center in Guayaquil. A police report suggested that the prisoners died suspiciously, but the cause was not determined by year's end.

On May 1, the body of Vicente Francisco Cantos Brito was found hanging in the detention facility at the Judicial Police Headquarters in Guayas. Cantos Brito had been arrested on charges of tomb robbing, and authorities suggested fellow inmates may have killed him in retribution for those acts but did not issue an investigation report.

On May 13, marines responding to a domestic violence call arrested Juan Lorenzo Delgado Zambrano and transferred him to the local precinct of the National Police. The following afternoon, at the suggestion of authorities, family members went to a hospital in Porto Viejo where they were informed that Delgado had fallen while fighting with another detainee. Delgado died later that day. An investigation of two police officers who were responsible for Delgado continued at year's end.

Conditions were notably better in the Quito women's prison than in men's facilities. As of November, 685 children and adolescents whose mothers were incarcerated were transferred from prisons to more suitable facilities; approximately 200 other such children remained at Centers for Social Rehabilitation. Pretrial detainees were held with convicted prisoners. According to CEDHU, male guards were responsible for guarding female inmates, and female inmates reported being beaten by male guards who accused them of trying to escape. The law stipulates that pregnant women cannot be jailed in prison facilities, yet many were jailed rather than being confined to their homes.

Although in most instances the government permitted prison visits by independent human rights observers, authorities occasionally did not permit human rights observers to visit prisoners who had been placed in isolation cells after they allegedly had been beaten.

d. Arbitrary Arrest or Detention

While the constitution prohibits arbitrary arrest and detention, in February 2006 the UN Working Group on Arbitrary Detention noted that provisions in the Criminal Procedure Code, the Penal Code, and some regulations adopted by central or provincial authorities "undermine the guarantees and protection offered." The working group cited two laws of particular concern: One imposes an obligation on judges to order detention for persons awaiting trial, i.e., "preventive detention," which in practice created a situation in which thousands of persons were detained for longer periods than the constitution allows, often years longer, thus violating their right to be tried within a reasonable time. The second measure abolishes sentence reductions, which led to a large number of persons serving lengthy sentences for minor offenses. In September 2006 the Constitutional Court ruled the preventive detention provision unconstitutional, holding that no person can remain in prison unsentenced for more than one year for penal crimes and six months for lesser crimes. The clock for inmates already incarcerated and all future incarcerated individuals started on October 23.

Role of the Police and Security Apparatus

The National Police are under the authority of the Ministry of Government. National Police effectiveness was impaired by corruption, poor hiring procedures, and insufficient training, supervision, and resources.

On May 6, a group of civilians and police officers, allegedly organized by Judicial Police officer Edwin Marcelo Revelo, assaulted Cabrera Letty Alcivar, who alleged that Revelo organized the attack over a family vendetta. In addition to assaulting Alcivar, the group ransacked her house and stole property. A police investigation determined that while Alcivar was harassed, her home was not entered.

The National Police reported that in 2006, 34 police recruits at the San Jose Chimbo police academy in Bolivar Province failed to meet normal entry qualifications and may have paid up to \$3,000 for admittance into the school. An investigation was pending at year's end.

The investigation of police officers who in November 2006 accompanied inmates on unauthorized excursions to an entertainment club in Quito led to the November 14 sentencing of three officers to eight years in prison and of two officers,

who were found to be accomplices, to four years' imprisonment.

Some municipalities, such as Quito and Guayaquil, have their own metropolitan police forces in addition to the National Police. A police internal affairs office investigates complaints against police officers and can refer cases to the police courts. Nongovernmental organizations (NGOs) claimed that members of the Quito and Guayaquil metropolitan police occasionally used excessive force. Police corruption was sometimes a problem.

The National Police contracted with NGOs to provide human rights training. A 2006 Amnesty International report criticized the use of the police court system, citing the UN Committee against Torture's concern that complaints of human rights violations by the security forces continued to be tried in police and military courts, which were neither independent nor impartial. NGOs reported no substantial change in this situation during the year.

Arrest and Detention

The law requires authorities to issue specific written arrest orders within 24 hours of detention, and authorities must charge the suspect with a specific criminal offense within 24 hours of arrest. Within 24 hours of arrest, detained persons may challenge the legality of their detention by habeas corpus petition to the senior elected official in the locality where detention takes place, usually the mayor; however, in practice few such petitions were presented.

Manuel Xavier Cornejo Delgado claimed that, on July 6, he was detained without a warrant or probable cause while walking home with his wife and son. On July 7, police searched Cornejo Delgado's mother's home, with his mother, siblings, nieces and nephews present. The family contended that the police officers beat and handcuffed the men. One policeman allegedly asked the men to choose who would be the first to die. The family had no further contact with Manuel until July 19, when an attorney was given permission to visit him in prison. Two days before Cornejo Delgado's arrest, he had filed a lawsuit against two police officers. No official investigation had been authorized by year's end.

In the case of an illegal detention, mayors have the right to release the detainee, based solely on procedural issues under the habeas corpus mechanism. Otherwise, a prisoner may be released only by court order. In some cases, detainees who are unaware of this provision, or who do not have the funds to hire a lawyer, may remain in prison for an extended period without being tried. Bail is allowed only in the case of less serious crimes, those punishable with "correctional imprisonment," and is prohibited for more serious crimes involving narcotics and other major offenses requiring long-term incarceration (offenses that "affect or put at risk" the public, punishable by three to 35 years' imprisonment).

Although the law entitles detainees to prompt access to lawyers and family members, there were delays depending on the circumstances and officials' willingness to enforce the law; alleged narcotics traffickers commonly waited 24 to 48 hours for these visits. Detainees with sufficient resources often bribed prison officials to facilitate access. CEDHU reported that during the July-November period of the emergency decree, an unknown number of prisoners were held in facilities that did not accommodate visits by family or counsel.

Although the law prohibits incommunicado detention, human rights organizations continued to report occasional violations. Even when police obtained a written arrest order, authorities 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.

Investigative 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. The law limits immediate detention to 24 hours for in flagrante crimes or to allow for investigative detention to begin. In most jurisdictions, the immediate detention is often considerably longer. If the investigation report is detrimental, the judge may order preventive detention, which is limited to six months for minor offenses and 12 months for major offenses.

The law permits prisoners to be held for an indefinite period after indictments have been issued but before they have been convicted or sentenced. The majority of the accused remained in prison during the investigation phase. According to government data, as of July approximately 63 percent of detainees had not been sentenced.

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, in practice the judiciary was at times susceptible to outside pressure and corruption. The media reported extensively on the susceptibility of the judiciary to bribes for favorable decisions and resolution of legal cases and on judges parceling out cases to outside lawyers who wrote judicial sentences on cases before the court and sent them back to the presiding judge for signature. CEDHU further asserted that judges occasionally reached decisions based on media influence or political and economic pressures.

The judiciary consists 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, which is charged with administering the court system and disciplining judges. There also are military and police tribunals that have the same status as circuit courts, as well as criminal, provincial, and cantonal (county) courts. The Supreme Court supervises the open and competitive selection of all appellate judges.

In March the Inter-American Commission on Human Rights ruled on the 2005 appeal by 27 justices of the Supreme Court, who had been replaced by Congress in 2004. The commission held that the rights of the justices and the rights of citizens who were denied a functioning supreme court may have been violated and referred the case to the Inter-American Court of Human Rights. The case remained pending at year's end.

Trial Procedures

Despite efforts to modernize the court system, the judiciary continued to operate slowly and inconsistently. There were lengthy delays before most cases came to trial. Judges reportedly rendered decisions more quickly or more slowly as a result of political pressure or, in some cases, the payment of bribes. The failures of the justice system contributed to cases in which communities took the law into their own hands, such as mob violence against suspected criminals.

There are no juries in the justice system. Defendants are presumed innocent until proven guilty and 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 only 32 attorneys were available to defend the large number of impoverished defendants throughout the country. As of October 31, 11,187 prisoners were incarcerated without sentence.

Civil society groups, lawyers' associations, universities, and foreign donors sought to support vulnerable groups that did not have access to legal defense. From January to September, foreign donor assistance funded legal counseling and defense services for approximately 3,000 persons from vulnerable groups of the population (especially poor prisoners and women) in seven cities.

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. Despite a constitutional provision that civilian courts have jurisdiction over police or military officers charged with criminal offenses, these officers were often tried in police or military courts. On January 7, Congress amended the National Security Law to require that all police officers be tried in regular civilian courts; however, CEDHU contended that the revised law was not enforced.

Although the law recognizes indigenous communities' right to exercise their own systems of justice based on their traditions and customs, it does not specify how they will be implemented. This parallel system raised questions of both jurisdiction and conformity to the right to a fair trial.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Civilian courts and the Administrative Conflicts Tribunal, generally considered independent and impartial, handle lawsuits seeking damages for, or cessation of, human rights violations. However, civilian lawsuits seeking damages for alleged wrongs by the state were rarely filed since such suits were time consuming and difficult to prosecute, with judges taking up to a decade to rule on the merits.

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

The constitution and the law prohibit such actions, and the government generally respected these prohibitions in practice.

Although wiretapping by the National Police to investigate crimes is legal with a court order, there is no specific procedural guidance for obtaining such approval.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government, while critical of the media, generally respected these rights in practice. An independent press and a largely democratic political system combined to promote freedom of speech and of the press. The independent media were active and expressed a wide variety of views without obvious restriction, although the National Union of Journalists asserted that President Correa's criticism of the media caused a degree of self-censorship.

President Correa often used his weekly radio address to criticize the media and accuse it of bias, frequently naming specific reporters and outlets. These comments drew criticism from the international NGO Reporters Without Borders. In May President Correa invoked the country's "insult laws" in filing a lawsuit against the president of the board of directors of *La Hora* newspaper over an editorial it published. President Correa and other administration representatives also threatened to revoke broadcast media licenses. On September 10, for instance, *El Comercio* newspaper quoted the president as saying that "promoting a coup d'etat" would constitute sufficient grounds to suspend a television channel's frequency.

A former government advisor, Quinto Pazmino, filed a \$10 million lawsuit against President Correa for libel. Authorities subsequently detained Pazmino on the grounds that he had insulted the president. On September 23, the Supreme Court ruled that Pazmino, as an assembly candidate, enjoyed special privileges, and he was freed after the payment of a fine. An investigation by the prosecutor general continued at year's end.

There were no known developments in the investigation into the February 2006 killings of two journalists.

Business and private interest pressures, both from media owners and businesses outside the media groups, sometimes influenced the content of news reporting.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available in larger cities, but access in remote locations was poor.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of peaceful assembly, and the government generally respected this right in practice; however, security forces used force and tear gas to quell some violent demonstrations, resulting in several injuries. Public rallies require prior government permits, which generally were granted, although exceptions occurred.

There were no developments, and none were expected, in the investigation of police suppression of a 2005 protest at the Jorge Mantilla Ortega School in Quito, which resulted in serious injuries to a student.

On March 7, the armed forces forcibly removed protesting members of the Union Alamorena Community and 25th of December Community who were protesting at a Petrobras petroleum site in Orellana Province. The army used tear gas and rubber bullets, and seven protesters were injured.

On March 13, hundreds of protesters gathered to demand resolution of the crisis caused when the Supreme Electoral Tribunal (TSE) removed from office 57 members of Congress. One member of Congress and one journalist were injured, when some of the protesters broke through police barricades and entered the legislative chamber.

On June 5, indigenous communities demonstrated nationally to protest the presence of transnational companies in the mining sector. There were major demonstrations, including the blocking of key roads, in the provinces of Carchi, Imbabura, Azuay, Bolivar, Morona Santiago, Zamora Chinchipe, and Cotopaxi. In some instances, the police responded with tear gas.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

The government requires religious groups to be licensed or registered if they engage in proselytizing activity. Religious organizations that do not engage in such activity may still choose to register to obtain a legal identity, which is useful when entering into contracts. Any religious organization wishing to register with the government must possess a charter and be in nonprofit status, include all names used by the group (to ensure that names previously registered are not used without their permission), and provide signatures of at least 15 members. In addition, groups must file a registration petition with the Ministry of Government, using a licensed attorney, and pay a \$100 registration fee.

Societal Abuses and Discrimination

The country has a small Jewish population. There were no reports of societal abuses or religious discrimination, including anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Protesters blocked roads, but less frequently than in previous years.

Citizens are no longer required to have exit permits to depart the country, and the government stopped issuing such documents on December 29. Additionally, men no longer must show proof of having completed military service before departing the country.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees

The laws provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. The government granted refugee status or asylum. In practice, the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. The government also provided temporary protection to individuals who might not qualify as refugees under the 1951 convention or the 1967 protocol. The government cooperated with the UNHCR and other humanitarian organizations, such as the International Organization for Migration (IOM), in assisting refugees and asylum seekers. This included attending to major flows of Colombians crossing at the northern border in January, March, and August.

The government reported that through the first six months of the year, it had received 5,792 applications for refugee status. Several thousand additional cases from this and preceding years were still pending. Rejected applicants have a legal right to appeal; after appeals are exhausted, they have 30 days to put their affairs in order and leave the country. While UNHCR and the government reported difficulty dealing with the number of applicants and appeals, both UNHCR and IOM supported the government's refugee office's efforts to streamline its decision-making and appeals processes and reduce its case backlog.

UNHCR estimated that 97 percent of the 50,000 recognized refugees and asylum seekers were of Colombian origin. A small percentage of applicants were Peruvian, who were reported by UNHCR and the government to be primarily economic migrants. Most Colombian refugees were poor farmers or small businessmen fleeing fighting in Colombia. The law allows persons granted refugee status to work. The identification card issued to asylum seekers explicitly states that bearers have the right to work, health care, and an education. UNHCR reported that while more than 50,000 asylum seekers have registered with the government (more than 14,800 of whom have been recognized as refugees) and received this aid, there were thousands of others without legal protection and limited or no access to public services.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

Following a first-round presidential election in October 2006, Rafael Correa won the runoff in November 2006 and was inaugurated on January 15. Independent observers, including the Organization of American States (OAS) electoral mission, described the elections as generally free and fair.

There were 31 women in the 100-seat Congress. There were two women, but no members of ethnic minorities, among the 31 Supreme Court members. There were seven women in the 23-member cabinet and three female secretaries of state with the rank of minister. There was one Afro-Ecuadorian and one Asian-Ecuadorian but no indigenous persons in the cabinet.

A referendum on establishing a Constituent Assembly took place on April 15; 82 percent of the voters favored establishing a Constituent Assembly that would have "unlimited powers in drafting a new constitution." Following a six-week campaign period, voters went to the polls on September 30 and gave President Correa's PAIS movement 80 out of 130 seats. OAS, European Union, and Carter Center observers concluded that the elections were free and fair, with only minor discrepancies.

The Constituent Assembly, which convened on November 28, suspended Congress and assumed the legislative function for the country until the conclusion of the Assembly process. The statute creating the Assembly gives it a six-month period to complete its work, with a possible extension of two months. By year's end, the Assembly had adopted a new law on tax equity but had not adopted or finalized any portions of the new constitution.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively. The World Bank's worldwide governance indicators reflected that government corruption was a serious problem.

On July 9, the executive branch instituted a lawsuit against 18 members of Congress suspected of attempting to exchange their votes on a pending law governing the banking sector for key posts for their allies in public institutions. The investigation continued at year's end.

On August 14, Congress issued a resolution demanding that the National Oversight Agency verify the tax returns of all 100 members of Congress. President Correa made his tax return available. This process continued at year's end. Congress was suspended on November 29 prior to the submission of all members' tax returns. The Constituent Assembly required all its members to present their 2006 tax returns, authorization to revise bank accounts in Ecuador and abroad, and an assets affidavit by January 11, 2008. Members were still submitting documentation at year's end.

President Correa, who announced that one of the highest priorities of his government would be fighting corruption, on March 3 decreed the establishment of the Office of the National Anticorruption Secretary, with responsibility for executing anticorruption policy and investigating acts of public corruption. The office claimed to have saved the government more than one million dollars by discovering waste, fraud, and abuse.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials cooperated with the groups but often did not act on their views.

An ombudsman's office focused on human rights problems; however, some observers criticized its lack of independence in practice. The office had adequate resources but was not considered effective on human rights issues.

Congress has a seven-member human rights committee. Despite turbulence in Congress, the committee remained comparatively active; it held hearings on the implementation of the National Human Rights plan, conducted seminars in cities throughout the country, and produced a short video on torture.

On May 3, a presidential decree created the Commission for Truth, a four-member body to investigate alleged human rights violations (particularly during the 1984-88 period) and to produce a public report.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status; however, women, persons with disabilities, indigenous people, Afro-Ecuadorians, homosexuals, and transgendered persons continued to face discrimination.

Women

Although the law prohibits violence against women, including within marriage, abuses were widespread.

The law criminalizes rape, including spousal rape, and provides a penalty of up to 25 years in prison. In cases of statutory rape involving "amorous" sex with a minor, the rapist may marry the victim, which cancels the charges unless the marriage subsequently is annulled. The penalty for rape where death occurred is 35 years' imprisonment. As of July there were 3,053 reported rapes, resulting in charges against 459 persons. No information was available on the number of cases prosecuted successfully. Many rapes were not reported due to the victim's reluctance to confront the perpetrator.

The law provides penalties for domestic violence of up to \$28 or seven days in prison and gives family courts the power to remove an abusive spouse from the home if continued cohabitation creates a risk to the victim of abuse. The courts may also issue restraining orders prohibiting the abusive spouse from approaching the victim or her place of employment or study; prohibiting the abusive spouse from persecuting or intimidating the victim or any member of her family; reinserting the victim into the family home, if shared, while simultaneously removing the abusive spouse from the premises; and ordering any treatment deemed beneficial to the affected family.

The Ministry of Government's Office of Gender reported, as of October 31, 23,365 cases of sexual, psychological, or physical mistreatment of women and 3,281 cases involving male victims. Thirty-one special Police Stations for Women and Families handled such issues as domestic violence. The government's National Commission on Women (CONAMU) may accept complaints about abuse of women but must refer cases to the prosecutor's office for action. CONAMU had projects in all provinces, focusing primarily on equal opportunities, public policy programs toward women, and lines of credit for women's businesses. CONAMU also offered legal and psychological services to victims of violence in most provinces. In some police stations, social workers employed by city governments or NGOs assisted victims. A variety of NGOs offer legal and psychological assistance to victims of domestic violence.

Prostitution is legal for persons over the age of 18 so long as the businesses are registered with the government and follow health regulations. Trafficking in persons for prostitution was a problem.

Despite the legal prohibition of sexual harassment, women's rights organizations described harassment in the workplace as common. CONAMU is charged with designing public policies to promote women's human rights and equality in cases of sexual harassment.

Despite legal protections of women's rights in politics, the home, and employment, societal discrimination against women was pervasive, particularly with respect to educational and economic opportunities for older women and for those in the lower economic strata. Although women enjoy the same legal status as men, the Office of Gender reported that women often did not receive equal rights in practice. According to the government, women received approximately 65 percent of the pay received by men for equal work. Women's advocates alleged that culture and tradition inhibited achievement of full equality for women. There were fewer women than men employed in professional work and skilled trades.

The Ecuadorian Women's Permanent National Forum included more than 320 women's organizations and promoted social, economic, and cultural change, including increased political participation by women. The National Women's Council provided support for approximately 500 women's organizations, many of which promoted social consciousness and greater participation by women in the political process. The NGO Women's Political Coordinator, which operated in all 22 provinces, also promoted women's rights, with emphasis on political participation and human rights.

Children

The government was committed to children's rights and welfare and has increased funding for child health and education; however, those steps were not fully effective.

The law requires that children receive a minimum of 10 years of education; however, due to shortages of schools, inadequate school funding, and the comparatively high cost of books and uniforms, the government rarely enforced this requirement. The Ministry of Education reported that most children achieved a sixth-grade education, with no notable difference in the attendance rates of boys and girls. The citizen movement Social Contract for Education estimated that 660,000 children ages six to 17 (approximately 22 percent of school-age children) did not attend school. Education was free through high school. Although the government eliminated all fees for elementary students, fees prevented many children and adolescents from attending secondary schools. Government programs provided families with educational subsidies, which assisted approximately 50,000 children to remain in school. In rural areas many children attended school only sporadically after 10 years of age because they needed to contribute to household income, primarily as farm laborers.

The government provided free medical care to children under age six. Boys and girls received equal access to such care. The Ministry of Health reported that 95 per cent of children received basic immunizations, but the UN Children's Fund (UNICEF) reported that 26 percent of children under five suffered from the effects of chronic malnutrition.

There was no societal pattern of abuse against children.

Commercial sexual exploitation of minors remained a problem.

More than 20 NGOs promoted child welfare. UNICEF and several private organizations were active in programs to assist street children.

Trafficking in Persons

While the criminal laws prohibit trafficking in persons, there were reports that persons were trafficked within, to, from, and through the country.

The country was a source, transit, and destination country for persons trafficked for the purpose of sexual and labor exploitation. The most recent statistics, from a 2003 International Labor Organization (ILO) report, estimated that 5,200 minors were engaged in prostitution. A 2006 ILO report indicated that victims were trafficked to Colombia and Venezuela and from Colombia into the country; however, most victims were trafficked within the country. Accounts indicated that traffickers lured young victims romantically or with promises of legitimate employment and then forced them into prostitution. According to press reports, some poverty-stricken parents also sold their children into trafficking situations, including prostitution, forced labor in agriculture, or street begging.

Traffickers were organized criminal gangs specializing in movement of persons, proprietors of small businesses such as bars or brothels, or illicit employment brokers. Some persons willing to pay up to \$10,000 to be smuggled out of the country were also victims of trafficking, and women were susceptible to sexual abuse by smugglers. NGOs and the press reported several instances of judges releasing trafficking detainees prematurely.

Victims were generally enticed to move to the location where they were enslaved. Victims from Colombia reportedly crossed the border in trucks. Falsified civil registry documents facilitated trafficking by disguising the nationalities of trafficking victims and the ages of juveniles.

The law criminalizes trafficking in persons and provides prison terms of six to 35 years. The law also provides penalties of six to 12 years in prison for promoting sexual tourism and child sex tourism. Numerous provinces and municipalities had antitrafficking action plans, prevention campaigns, and in some cases ordinances.

As of September, there were approximately 160 trafficking cases in the judicial process awaiting adjudication.

Authorities in Quito detained six traffickers and rescued 11 victims in the "Dunky" case. As part of this case, in May a court sentenced a 19-year-old man to 12 years' imprisonment and his 18-year-old accomplice to six years' imprisonment. The victims, both girls, 13 and 15 years old, had been lured from their homes in a small town and taken to Quito for the purpose of sexual exploitation.

In August a court in Quito sentenced a man and a woman to 12 years' imprisonment for trafficking in persons for the purpose of sexual exploitation.

The trafficking prosecutor for El Oro Province continued successful prosecutions. A trial that began in Machala in March resulted in a conviction and a 12-year prison sentence for the owner of a brothel for forced prostitution of a 15-year-old minor.

The country increased the number of law enforcement officials and prosecutors devoted to combating trafficking in persons. In May 2006 the child welfare police (DINAPEN) created an eight-person trafficking intelligence unit to work with police, Interpol, and prosecutors. This unit operated in Pichincha Province. In August the government created and trained a 36-member specialized police unit, spread over seven major cities, dedicated to victim and witness protection. In November the Ministry of Interior and the National Child and Family Welfare Institute began training workshops on human trafficking for criminal court judges, public prosecutors, DINAPEN, and the Judicial Police.

DINAPEN made arrests during raids on nightclubs, bars, and brothels in Guayaquil, Machala, Quito, and Santo Domingo de los Colorados.

In August the Ministry for Social and Economic Inclusion (former Ministry of Social Welfare) launched a National Program for Special Protection, which includes antitrafficking activity in the provinces of Chimborazo, Tungurahua, and Canar. Additionally, the Ministry of Tourism drafted a Social Responsibility Manual for Sustainable Tourism aimed at highlighting for tour operators the importance of protecting the rights of children and adolescents and the role of local communities.

Minors engaged in prostitution were returned to their families or to NGOs without being detained. Shelters and victims'

services have been identified and shelter staffs trained. The Public Ministry's victim and witness protection program assisted trafficking victims by providing shelter, psychological and medical attention, police protection, and economic and employment assistance to victims willing to assist in investigations. Five shelters in the provinces of Azuay, Pichincha, and El Oro provided specialized assistance to more than 120 victims of sexual commercial exploitation.

In May the minister of foreign affairs sponsored a presentation of the K-11 Film Project on human trafficking. In September civil society organizations sponsored a two-day workshop for journalists on socially responsible investigative reporting, which incorporated trafficking as one of its thematic areas.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and the provision of other state services. The interagency National Council on Disabilities oversees government policies regarding persons with disabilities. Although the law mandates access to buildings for persons with disabilities, the government did not enforce it.

For the Constituent Assembly elections, the TSE did not print ballots in Braille but allowed blind individuals to have assistance from a relative while voting. The TSE provided sign language translators and made efforts to ensure that voting precincts were fully accessible to persons with disabilities. While accessibility to some voting precincts was difficult, numerous persons with disabilities were assisted by the military and others to ensure they were able to access their voting tables.

The law requires the hiring of persons with disabilities in all public and private enterprises with more than 25 employees; however, there was no information on its implementation. An initiative, "Ecuador without Barriers," led by Vice President Lenin Moreno helped create 1,184 jobs for persons with disabilities by year's end.

National/Racial/Ethnic Minorities

The estimated 600,000 Afro-Ecuadorian citizens suffered pervasive discrimination, particularly with regard to educational and economic opportunity.

The Afro-Ecuadorian Cultural Center estimated that 70 percent of Afro-Ecuadorians lived in poverty. Afro-Ecuadorian organizations noted that, despite the absence of official discrimination, societal discrimination, including stereotyping, continued to affect them. For example, they continued to assert that the police stopped Afro-Ecuadorians for document checks more frequently than they stopped other citizens and that employers often would not interview persons whose job applications carried Afro-Ecuadorian photos. There were no special government efforts to address these problems.

Indigenous People

Estimates of those who maintained their indigenous cultural identity and lived in indigenous communities varied between 7 and 20 percent of the population. The vast majority of indigenous citizens resided in rural areas, including the highlands and the Amazonian provinces. Despite their growing political influence and the efforts of grassroots community groups, which were increasingly successful in pressuring the government to assist them, indigenous people continued to suffer discrimination at many levels of society. With few exceptions, indigenous people were at the lowest end of the socioeconomic scale.

Arable land was scarce in the more heavily populated highland areas, where high infant mortality, malnutrition, and epidemic disease were common among the indigenous population. Electricity and potable water often were unavailable. Although the rural education system was seriously deficient, many indigenous groups participated with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The law 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 region, indigenous groups lobbied the government, enlisted the help of foreign and domestic NGOs, and mounted protests in attempts to win a share of oil revenues and a voice in natural resource and development decisions.

The government generally consulted indigenous communities on natural resource matters. Although oil companies increased efforts to minimize the environmental and social impact of their oil projects in the Amazonian region, environmental damage, particularly deforestation, continued. Corrupt local officials, a lack of political will, and divisions among and within indigenous communities undermined indigenous efforts to manage the flow of illegally harvested timber.

The ombudsman's office had representatives in indigenous communities throughout the country. These had responsibility for promoting human and indigenous rights among indigenous communities and providing specific advisory services to

these groups.

Other Societal Abuses and Discrimination

Although the law prohibits discrimination based on sexual orientation, homosexuals, transsexuals, and transvestites continued to suffer discrimination from both public and private bodies.

According to Kirmirina, a credible NGO, police subjected homosexuals, transsexuals, and transvestites to cruel, inhuman, and degrading treatment. The NGO accused the police of specifically targeting them and inflicting physical and psychological abuse, threats, extortion, and robbery. Police routinely arrested homosexuals and transvestites in public areas.

On December 20, the Municipality of Quito passed an ordinance supporting the fundamental human rights of all citizens, regardless of sexual orientation.

Section 6 Worker Rights

a. The Right of Association

While the law provides most workers with the right to form and join trade unions of their choice, legal protections of these rights were inadequate, sometimes failing to deter employers from retaliating against workers for organizing. Members of the police, the military, and most public sector employees were not free to form trade unions. Approximately 2 percent of the workforce was organized.

The law provides subcontracted workers with the right to freedom of association, the right to bargain collectively, and the right to legal protection against antiunion discrimination. The law sets the number of workers required for an establishment to be unionized at 30. Some companies took advantage of this law by subcontracting with shell companies, each of which had fewer than 30 workers.

While employees of state-owned organizations enjoyed rights similar to those in the private sector, the law prohibits the majority of public sector employees from joining unions or exercising collective bargaining rights. Most public employees maintained membership in a labor sector association; such associations are not allowed to strike or bargain collectively.

The labor code requires workers in state enterprises to be represented by a single labor union. The law does not require reinstatement of workers fired for antiunion activity but does require compensation and fines. The law does not protect workers against antiunion discrimination in hiring. The compensation case filed by 48 employees at the Transnavo shipping company, who were fired in September 2006 after seeking to unionize, remained pending at year's end.

b. The Right to Organize and Bargain Collectively

The law requires all private employers with 30 or more workers belonging to a union to negotiate collectively when the union so requests. Collective bargaining agreements covered 25 percent of the organized workforce. Most of the economically active population was employed in the agricultural sector or the urban informal sector; the vast majority of these workers were not organized. The law allows businesses to hire workers on individual contracts.

Many newly hired employees, particularly in the agricultural sector, worked on temporary contracts. In practice it was difficult to organize temporary employees on short-term contracts. Since the labor code does not recognize temporary workers, they did not enjoy the same level of protection offered to other workers.

There are few restrictions on the right of private-sector workers to strike, although a 10-day period is required before a strike can be declared. The law allows solidarity strikes or boycotts of three days if the Ministry of Labor approves them. In some industries, during 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. However, in other industries, such as agriculture, the law requires a 20-day waiting period from the day the strike is called. During this time, workers and employers must agree on how many workers are needed to ensure a minimum level of service, and at least 20 percent of the workforce must continue to work in order to provide essential services. The law provides that "the employer may contract substitute personnel" only when striking workers refuse to send the number of workers to provide the minimum necessary services, although in practice this law was not enforced. The law protects strikers and their leaders from retaliation.

The law does not provide the majority of public workers (those who fall under the civil service law) with the right to strike. It includes a provision that striking public sector workers are liable to between two and five years in prison; however, there were occasional "illegal" strikes, including by public school teachers and health workers. Public workers are prohibited from bargaining collectively.

The law permits the hiring of temporary workers for the maquila (in-bond processing for export) industries. The maquila system allows a company and its property to become an export-processing zone wherever it is located. There were no unions or labor associations in the maquilas. Most workers were hired on temporary contracts by the employer to complete a specific order.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that children were trafficked for labor.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits exploitation of children in the workplace and forced or compulsory labor; however, the government did not effectively enforce the law, and child labor remained a problem.

The labor code and the child and adolescent code set the minimum working age for minors at 15 for all types of labor and the maximum hours a minor may work at six hours per day and five days per week. The law lists 15 jobs that are not suitable for children and prohibits minors from working in hazardous conditions, including in mines or in jobs requiring exposure to toxic or dangerous substances. The law requires employers to pay minors at least 80 percent of the wages received by adults for the same type of employment. Penalties for violations of the child labor laws include fines of \$50 to \$300 for parents or guardians, fines of \$200 to \$1,000 for employers hiring adolescents between ages 15 and 17, and a \$1,000 fine for any employer found to have hired children under the age of 15. In cases of repeated infractions, the employer's business can be closed.

The Ministries of Labor and Social Welfare and the Minors' Tribunal were charged with enforcing child labor laws, and enforcement continued to improve but was not fully effective. A 2006 study by the National Institute of Statistics and Census found that 367,000 children between ages five and 14 were engaged in labor not permitted by law, primarily working in rural areas in the informal sector, compared with 550,000 in 2006.

The government's 28 child labor inspectors inspected locations that employed child labor; these inspectors had the authority to cite violations and sanction companies and employers found to have illegally hired child labor. From January to July, the Ministry of Labor issued 100 citations to employers for child labor law violations. Through December the inspectors conducted approximately 2,242 workplace inspections and found approximately 198 minors under age 17 working in violation of labor laws. All cases were referred to the proper legal authorities, although none had been resolved by year's end.

The Ministry of Labor's three-officer Division for Child Labor meets monthly with other divisions in the ministry and the National Committee for the Progressive Eradication of Child Labor, which includes government agencies, businesses, and labor organizations.

While the Ministry of Labor's Social Service Directorate monitored child labor in businesses such as factories, enforcement in most sectors of the economy remained limited. In urban areas, many children under age 15 worked in family-owned businesses in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Other children were employed in commerce, messenger services, domestic services, and begging. Children as young as five or six often sold newspapers or candy on the street to support themselves or to augment family income.

The government supported the Program for the Schooling and Protection of Child Workers, which implemented a workshop program in six cities to work with families and schools on the problem of child labor.

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 the minimum wage. The minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$186, or one dollar per hour, in the case of contract workers. The statutory minimum wage did not 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, most workers worked in the large informal and rural sector without obtaining the minimum wage or legally mandated benefits.

The law provides for a 40-hour workweek and two consecutive days of rest per week. If required to work beyond the standard workweek, workers must be paid overtime. A higher overtime rate is set for working at night. The maximum number of hours of overtime was 12 hours per week, which generally was respected, except in subcontracting companies where workers sometimes were required to work up to 28 hours of overtime per week. The Ministry of Labor did not deploy sufficient resources to enforce labor laws.

The law also provides general protection for workers' health and safety on the job. The Social Security Institute is responsible for enforcing health and safety standards and regulations. In the formal sector, occupational health and safety was not a significant problem. However, there were no specific regulations governing health and safety standards in the agricultural sector, and in practice there was no enforcement of safety rules in the small mines that make up the vast majority of enterprises in the mining sector.

A worker may not leave the workplace for health reasons, even if there is a hazardous situation. A worker is allowed to request that an inspector from the Ministry of Labor confirm a workplace hazard; that inspector then may close down the workplace. Response time for inspectors ranged from three days in major cities to much longer in the countryside.

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