



U.S. DEPARTMENT of STATE

Ecuador

Country Reports on Human Rights Practices - [2006](#)

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Ecuador is a constitutional republic with a population of approximately 13.5 million. Vice President Alfredo Palacio assumed the presidency in April 2005 after the National Congress removed his predecessor, and he will complete the previous president's term in January 2007. On October 15, general elections were held, resulting in a presidential runoff between Alvaro Noboa and Rafael Correa. On November 26, Correa won the presidency in elections that the Organization of American States (OAS) considered generally free and fair. 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 serious problems in the following areas: isolated unlawful killings and use of excessive force by security forces; occasional torture, abuse, and killing 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, such as 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.

In April a stray bullet that came from a police officer's gun killed a student protester in Cuenca. The authorities denied responsibility (see section 2.b.).

On June 22, Miguel Angel Chiran, an off-duty police officer, allegedly shot and killed taxi driver Eulogio Tabango Quishpe. Witnesses suspected that the shooting took place as Chiran tried to steal the taxi and the driver resisted. On June 26, following a hearing, the Police Disciplinary Tribunal fired the police officer, although he remained in jail pending a possible trial.

On August 26, two military officers reportedly shot to death an indigenous medicine man in Puyo, Pastaza Province, in the belief that the victim had cast a spell (see section 2.c.).

A police court case against police officer Freddy Abel Rizzo Barzola continued in connection with the August 2005 killing of detainees Washington Enrique Vilela Barra and Luis Antonio Cevallos Barre, whose bodies were found the day after their arrest. In November 2005, authorities arrested a second police officer implicated in the killing, and a police prosecutor's investigation continued at year's end.

In September 2005, military officers on patrol in Sucumbios Province reportedly opened fire with no warning on a vehicle, killing two occupants. The district attorney charged four army officers in the case: Angel Chuya, Carlos Badillo, Benito Tangamashi, and Jorge Zamora. Military authorities detained the four officers, and the Sucumbios attorney general initiated a formal investigation that continued at year's end.

There were no developments in the 2004 police killing of Luis Alfonso Ortiz Rodriguez. The police officer, who killed Ortiz while investigating a domestic dispute, remained in prison pending an investigation to determine whether the killing was accidental.

There were no new developments in the 2004 investigation of the alleged police killing of Erik Fabricio Lopez Yanez. The accused police officer and his brother remained in jail pending the outcome of the investigation.

In contrast with 2005, there were no reports that prison guards killed inmates during the year.

There were cases of mob violence against suspected criminals, which occurred particularly in indigenous communities and poor neighborhoods of major cities, where there was little police presence (see section 1.e.). However, the Ecumenical Human Rights Commission (CEDHU) reported that there were fewer incidents of mob violence than in 2005.

On June 13, residents in the rural agricultural community of El Carmen, Manabi Province, tried to lynch two persons suspected of attempting to kidnap a young girl. Residents had reported the incident to police who failed to apprehend the suspects.

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 northern border with Colombia. During the year police registered 41 kidnapping cases and 18 related arrests as well as 25 "express kidnappings" (in which a person is driven around and forced to make automatic withdrawals of personal funds) with seven related arrests.

On May 26, a group of seven to 10 individuals, including a police officer, kidnapped Jose Stisin Barriga on the outskirts of Quito. The family was unable to comply with the three-million-dollar ransom request, and after a two-month police investigation, Stisin's body was recovered. The authorities arrested the officer and two other suspects, one of whom acknowledged having ties to Colombia's Revolutionary Armed Forces, a terrorist group. The police officer, Darwin Pozo, was fired, tried and convicted in civil court, and sentenced to eight years' imprisonment.

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 continued to torture and abuse suspects and prisoners, often with impunity.

The government took no action on a November 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. The committee had noted that 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 August CEDHU registered alleged cases of torture by police forces involving approximately 30 victims. In most cases the police appeared to have abused such persons during investigations of ordinary street crime, antigovernment demonstrations, or because of a personal grudge. The victims reported that the security forces beat them, punching and kicking different parts of their body. During the night while sleeping on the floor without blankets, the victims also reported being awakened and showered with cold water, forced to stand for long periods while blindfolded, and made to kneel for hours while security forces stepped on their legs. To hide any evidence of bruising, the victims said security forces would either pad their bodies or cover with cloth the stick with which they were beaten.

On January 23, Quito judicial police arrested a group of students suspected of participating in street demonstrations protesting the implementation of the government's student identification program. According to one of those arrested, human rights activist Victor Hugo Salazar, the police separated the students into two groups and took one group to an area reserved for those deemed to have committed serious crimes. Police allegedly stripped members of the group, showered them with cold water, then kicked, punched, and beat them with a broomstick. The students alleged that they were then taken to an interrogation room and beaten. The police also allegedly used a thick stick inscribed with the words "human rights" to beat the students, as they taunted "Here are your human rights." The police, who later released the students, confirmed that the students were detained but denied any mistreatment and did not conduct any investigation.

According to CEDHU, in January two police officers in Quito stopped a transvestite pedestrian, Jorge Tamayo, and insulted him, later sprayed him with tear gas, beat him with a stick full of nails, then took him to jail where he was hosed with water to wash away the blood and beaten again. The police refused Tamayo's request to be sent to a hospital for his injuries and continued the beatings, threatening to kill him; finally they released him. In both March and April, police officers accosted and again beat Tamayo and his partner and took some of their belongings. The police split Tamayo's lip and inflicted head injuries. Police also beat Tamayo's partner and took some of their belongings. After a police investigation, the victims were called in to identify the two alleged suspects; however, the victims never appeared, and the investigation was closed.

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. In June the government declared a 70-day state of emergency covering the country's 34 jails and detention centers to address infrastructure, staffing, and funding issues in the prisons. The National Office for Social Rehabilitation (DNRS) reported that the government had disbursed only 2.5 million dollars out of a proposed eight million dollars to pay jail guards' unpaid wages and to improve the infrastructure at jails in Quito and Guayaquil. Overcrowding was a chronic problem in most facilities. According to the attorney general's office, as of June, 15,125 prisoners nationwide were held in facilities built to hold 7,463. 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. Prisoners in various centers threatened to strike during the year, citing overcrowding, low budgets, and problems with rehabilitation and social reintegration programs.

The DNRS reported that through December, 30 prisoners died: 14 from illness, five from serious injury, and five from unknown causes; six were suicides. On January 21, Pablo Daniel Sanchez Altamirano died after being held for over a week by the Judicial Police. While police sources indicated that Sanchez had been injured before his arrest, human rights sources claimed that more rapid medical attention might have saved his life.

In September and December 2005, unknown assailants killed two guards suspected of killing four prison inmates in September 2005. Authorities suspected that the head of a prison gang ordered the killings.

Conditions were notably better in the women's prison in Quito than in men's facilities. Approximately 325 children lived in prison with their mothers at year's end. Pretrial detainees were held with convicted prisoners. According to CEDHU, male guards are 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 isolated cells after they allegedly had been beaten.

d. Arbitrary Arrest or Detention

While the constitution prohibits arbitrary arrest and detention, the UN's Working Group on Arbitrary Detention noted on February 22 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 UN 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. On September 26, the Constitutional Court found the "preventive detention" provision unconstitutional, but prisoners were not released.

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. In the state of Guayas, 21 police recruits reportedly "cleaned" their criminal convictions. Through July, 60 recruits had been convicted of crimes committed after becoming recruits or faced charges; only four of the 60 had graduated from training.

On November 11, four police officers escorted Oscar Caranqui, a jailed narcotics trafficker out of jail for a visit to an entertainment club. Caranqui, who was wearing a police uniform lent to him by one of the officers, declared at a hearing that the November 11 excursion was his eighth such outing and revealed that seven other inmates enjoyed similar privileges. The police officers who accompanied Caranqui were under investigation at year's end.

In November President Palacio ordered the restructuring of the National Police and directed top police officials to punish those responsible for corruption.

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. An internal affairs investigation of charges that the former National Police director facilitated alien smuggling concluded without formal charges.

The National Police contracted with NGOs to provide human rights training. A 2006 Amnesty International report again 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.

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, few such petitions were made in practice.

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). According to government data as of June, 66 percent of detainees in jail had not been sentenced.

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.

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. If the investigation report is detrimental, the judge may order preventive detention. Preventive detention is limited to six months for minor offenses and 12 months for major offenses. However, 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. More than 60 percent of the detainees in jail had not been sentenced, and approximately 10 to 15 percent had been tried but not 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 judicial 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.

In September a former congressman involved in litigation before the Supreme Court accused three justices of soliciting a \$500,000 bribe to secure a favorable ruling. The three judges were expelled from the court, and at year's end the case remained under investigation by the Office of the Attorney General.

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 selection by open competition of all appellate judges.

A decision by the Inter-American Commission on Human Rights on a February 2005 appeal brought by 27 justices of the Supreme Court who were replaced by Congress in 2004 remained pending at year's end.

Trial Procedures

Despite ongoing 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 (see section 1.a.).

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 31 attorneys were available to defend the large number of impoverished suspects throughout the country.

Civil society groups, lawyers' associations, universities, and foreign donors sought to support vulnerable groups of the population that did not have access to legal defense. From January to September, foreign donor assistance funded legal counseling and defense services for 2,518 persons from vulnerable groups of the population (especially poor prisoners and women) in seven cities.

A recent evaluation the local NGO Fundacion Esquel conducted in three cities that account for 60 percent of the country's criminal cases indicated that, despite some advances in the application of the accusatory justice system, severe limitations remained. The study identified a particular need for improvements in the public defender system, better prosecutor-police coordination, and implementation of a national program to protect victims and witnesses.

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 are often tried in police or military courts. The police court often did not pursue cases or announce verdicts and punishments, reinforcing the impression that police were immune from prosecution. While the constitution places both police and military justice under the regular judicial system, the systems remained separate.

Although the law recognizes indigenous communities' right to exercise their own system of justice based on their traditions and customs, it does not specify its implementation. 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 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. There were no cases of public figures bringing criminal charges against journalists during the year. The independent media were active and expressed a wide variety of views without restriction.

While there were no reports of officials using libel laws to suppress criticism of political or other leaders, in June Ignacio Alvarez, the OAS special rapporteur for freedom of expression in the Americas, in June called on the government to review legislation that constituted "insult laws." Other respected NGOs supported Alvarez's comments.

In February two journalists were killed within a 24-hour period. The Inter-American Press Association and other press freedom NGOs called on authorities to investigate whether the killings were related to the victims' journalistic activities. The authorities claimed that the deaths were most likely related to gang violence, and there were no arrests of suspected perpetrators.

On several occasions the government declared emergencies, suspending civil liberties in specific regions. For example, in February the government declared a state of emergency in Napo Province during a regional strike that paralyzed the export of crude oil. The order suspended constitutional guarantees of freedom of speech and of expression.

On February 22, in the city of Esmeraldas, the Popular Democratic Movement organized a protest march led by the mayor and the prefect, who were from the same political party; some 4,000 persons protested against the media while the mayor and prefect verbally insulted news organizations. The Attorney General's Office investigated four individuals rumored to have been hired by the mayor's office to distribute flyers denouncing local media and their owners.

A superior court decision remained pending in the January 2005 case against University Leftist Revolutionary Front activists who attacked former vice president Leon Roldos Aguilera while he was giving a speech at the Central University.

After a preliminary investigation, the case of a February 2005 dynamite attack on the Radio Canela radio station in Macas, Morona Santiago Province, was closed in November 2005.

In January a judge dismissed all charges against members of a pro-Gutierrez movement who invaded and vandalized the offices of the NGO Citizen Participation in March 2005.

On March 3, Quito's Superior Court dismissed sedition charges against former president Gutierrez and ordered his release from prison. The charges stemmed from statements the ex-president made while abroad claiming to be the country's legitimate leader.

Economic considerations influenced elements of the media who tended to reflect the narrow, regional interests of their owners. Business and private interest pressures on the media sometimes constrained freedom of the press.

The 2004 request by then president Gutierrez for a formal inquiry into allegations by a prominent radio director that Gutierrez accepted money from a Colombian guerrilla group did not result in any further investigation.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

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.

Through its state of emergency decrees, the government at times restricted popular demonstrations and freedom of speech by arresting and bringing civilian demonstrators before military tribunals and sentencing them to between six and seven years in prison.

President Palacio on several occasions during the year quelled disruptive protests. In January a presidential decree issued to stop street protests against local authorities suspended the right to assembly in the coastal city of Chone, Manabi Province, for up to 90 days.

Indigenous demonstrations, led by the Confederation of Indigenous Nationalities of Ecuador (CONAIE), took place in February and March. The government announced it would use force, if necessary, to stop the demonstrations, and CEDHU reported that military and police forces use of tear gas and batons against many demonstrators caused serious injuries.

In March a tear gas canister fired by police in Pichincha Province struck protester Jose Alberto Cabascango, causing the loss of an eye; other demonstrators suffered neck, nose, and head injuries. In the city of Cayambe, the armed forces surrounded the Radio Intipacha station and detained announcers William Ramos and Julio Charro for reporting on demonstrations in Chimborazo, Cotopaxi, Imbabura, Canar and sections of Pichincha provinces. The next day the armed forces forcibly entered the radio station's premises and ordered the playing of music in place of regular programming.

In April a stray bullet killed student protester Jhonny Montesdeoca in Cuenca. Although an investigation determined the bullet came from a police officer's gun, the authorities denied any police involvement and alleged that bank guards were responsible for the shooting. Bank representatives disputed these accounts and stated that bank guards only fired their guns in the air. No further details were available.

On September 6, residents of Guayaquil demonstrated in the center of the city to demand wider access to the city's metrobus system. National Police forces dispersed the demonstrators, many of whom were elderly, women, and children, with physical force including the use of tear gas. Members of the media covering the demonstrations were also affected by the police force's actions. By contrast, a similar type of demonstration supporting the city's metrobus system and the mayor of Guayaquil received police protection (see sections 2.a., 2.b., and 6.a.).

There were no further developments in the investigation relating to the March 2005 police actions to suppress a protest at the Jorge Mantilla Ortega School in Quito, which resulted in serious injuries to a student.

An investigation continued in the April 2005 case of Chilean journalist Julio Garcia Romero, who had a heart attack after being exposed to tear gas while covering a demonstration.

There were no new developments in the 2004 case in which the military shot four participants (one of whom later died) in a demonstration by indigenous people (see sections 1.a. and 5). The case, according to the military prosecutor, remained under investigation.

Protesters often blocked roads. Security forces generally intervened in such demonstrations only when there was violence against bystanders or destruction of property.

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.

The press reported that on August 26, two military officers shot to death a shaman (indigenous medicine man) in Puyo, Pastaza Province. One of the officers reportedly believed the shaman had used a "powerful stone" to cast a spell on his wife and asked the shaman for the stone to cure her. Later that evening, the officers returned, escorted the shaman and two of his sons to a river, and allegedly fired several shots that killed the shaman and injured one of his sons. Both officers remained under arrest. Press reports added that at least nine shamans have been killed in the past 10 years in the same area.

Societal Abuses and Discrimination

The country has a small Jewish population. During the year there were no reports of societal abuses or discrimination against members of religious groups, including anti-Semitic acts.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

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

The law provides for these rights, and the government generally respected them in practice. Protesters often blocked roads (see section 2.b.). Men must show proof of having completed military service or pay a fine to leave 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. In practice, the government provided protection against refoulement, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. The Office of the UN High Commissioner for Refugees (UNHCR) also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention/1967 protocol. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The government reported that through September it had received 5,779 applications for refugee status. Approximately 2,600 cases from this and preceding years were pending. Rejected applicants have a legal right to appeal and after appeals are exhausted, they have 30 days to put their affairs in order and leave the country. Both UNHCR and the government reported difficulty dealing with the number of applicants and appeals.

Approximately 97 percent of refugee applicants were Colombians. A small but rising percentage of applicants were Peruvians; however, both the UNHCR and government reported that the vast majority of these applicants were actually 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. The government reported that it has undertaken a campaign to educate local officials on refugee rights. UNHCR officials noted that growing anti-Colombian sentiment discouraged many Colombian refugees from formally seeking asylum. The UNHCR began training police officials to refer such cases to the Foreign Ministry.

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

In April 2005 following large-scale protests in Quito and the public withdrawal of support by the military and the National Police leadership, Congress voted to remove President Gutierrez, who had been democratically elected in 2002. Vice President Alfredo Palacio assumed the presidency to finish Gutierrez's term. First-round presidential elections on October 15 resulted in a runoff between Alvaro Noboa and Rafael Correa. On November 26, in an election considered generally free and fair, Correa won the runoff; his inauguration was scheduled for January 15, 2007. The OAS deployed electoral observation missions for both the first-round and runoff elections; after the second round, the mission "took place in an atmosphere of calm, and voters were able to freely exercise their franchise."

On October 15, 26 women, four indigenous persons, and one Afro-Ecuadorian were elected to the 100-seat Congress. There were two women but no members of ethnic minorities among the 31 Supreme Court members. President-elect Correa named eight women, one Afro-Ecuadorian, and one indigenous person to his cabinet to take office on January 15, 2007.

The law requires that the percentage of female candidates increase in each election until it reached 50 percent in 2008 (with 45 percent specified for the 2006 election). Some political parties met this mandate by listing women as alternates, including spouses of party leaders, and alternated multiple male candidates at the top of the list followed by an equal number of women. Legal challenges to this practice have been unsuccessful.

In 2005 the Supreme Electoral Tribunal (TSE) barred former president Gutierrez from running for political office claiming that he violated campaign financing laws during his 2002 presidential campaign. In July the Constitutional Court upheld the TSE ruling that Gutierrez could not run for public office at any level until 2008.

Government Corruption and Transparency

There was a widespread public perception of corruption in all areas of the government. The NGO Transparency International reported in its 2006 Corruption Perceptions Index that corruption continued to be a "severe" problem, worsening from the previous year.

An investigation begun in August 2005 of advisers to President Palacio who allegedly forged the president's signature on documents granting government positions resulted in dismissal of a military aide from the army; a second adviser's case remained pending in the criminal court.

The 2004 case involving the national police chief, several other police officials, and members of the army accused of collaborating with alien smugglers ended with no charges filed against any suspects.

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 restriction, investigating and publishing their findings on human rights cases. Government officials cooperated with the groups but often did not act on their views.

There is an office of the ombudsman to focus 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.

The government continued to implement various aspects of the National Human Rights Plan, including human rights training for the Congress, seminars, publication of documents, and a contingency plan for refugees. Several prominent human rights NGOs publicly criticized the government's lack of progress in implementing the plan.

Congress has a seven-member human rights committee. The committee met infrequently, and local human rights organizations did not consider the committee's role particularly significant.

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, and Afro-Ecuadorians continued to face significant discrimination.

Women

Although the law prohibits violence against women, including within marriage, abuses were widespread. The law provides penalties for domestic violence of up to \$28 or seven days in prison, creates family courts, and gives 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 Office of Gender, in the Ministry of Government, reported 68,184 cases of sexual, psychological, or physical mistreatment of women during the year. Women may file complaints against a rapist or an abusive spouse or companion only if they produce a witness. Thirty special Police Stations for Women and Families handled issues including 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.

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 in prison. By the end of the year there were 1,452 reported rapes, resulting in 586 persons charged. 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.

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 (see section 5, Trafficking).

Despite the legal prohibition of harassment, women's rights organizations described sexual harassment in the workplace as common.

The law also provides legal support to the government's National Women's Council, which is charged with building public policies that promote women's human rights and equality in cases of sexual harassment. The Council and the Ministry of Education and Culture organized a sexual harassment monitoring program in the provinces of Esmeraldas, Manta, Cuenca, and Loja to prevent sexual harassment in the education sector. The government provided protection to sexual harassment victims and those who report such incidents, and it conducted public education against sexual harassment in the workplace.

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 through various methods, including increasing 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 operated in all 22 provinces and promoted similar themes relating to women's rights, with emphasis on political participation and human rights. It also focused on young women and Afro Ecuadorian women.

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 UN Children's Fund (UNICEF) reported that approximately 70 percent of the country's 4.8 million children lived in poverty and that malnutrition affected 15 percent of children under age five.

The law requires that children receive a minimum of 10 years of education; however, due to the lack of schools in many rural communities, the government's failure to provide adequate resources, the economic needs of families, and the comparatively high cost for poor families of books and uniforms, the government rarely enforced this requirement in practice. The Ministry of Education reported that most children achieved a sixth grade education. The citizen movement Social Contract for Education estimated that during the year 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 there were various related fees that prevented many children and adolescents from attending school. The government operated programs that 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 (see section 6.d.). In some areas there were no teachers in the classrooms at the start of the school year; other schools reported an extremely high student/teacher ratio forcing school administrators to initiate morning and afternoon shifts to accommodate the students.

The government provided free medical care to children under age six. Boys and girls received equal access to such care.

There was no societal pattern of abuse against children.

Commercial sexual exploitation of minors was a problem (see section 5, Trafficking).

More than 20 NGOs promoted child welfare. UNICEF and several private organizations were active in programs to assist street children. The children of the poor often experienced severe hardships, particularly in urban areas.

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 2002 International Labor Organization (ILO) report, estimated that 5,200 minors were engaged in prostitution. Ecuadorians were trafficked to Italy, Spain, Colombia, and Venezuela; however, most victims were trafficked within the country. Anecdotal evidence showed 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, wittingly or unwittingly, including prostitution or forced labor in agriculture.

Traffickers were organized criminal gangs specializing in movement of persons, proprietors of small businesses such as bars or brothels, or illicit employment brokers. Anecdotal evidence indicated that some of those 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. Falsification of civil registry documents to disguise the nationalities of trafficking victims and the ages of juveniles was a problem.

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. Since the law took effect in June 2005, there have been more than 100 arrests: all were in some stage of prosecution.

The country increased the number of law enforcement officials and prosecutors devoted to combating trafficking in persons. In May, the child welfare police created an eight-person trafficking intelligence unit to work with police, Interpol, and prosecutors. 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 September the government established a specialized 14-person Special Sexual Crimes Police Unit to investigate trafficking-in-person crimes.

Prosecutors and judges received training on preparing and adjudicating trafficking cases.

The police youth protection agency (DINAPEN) conducted regular raids on nightclubs, bars, and brothels. Raids in Guayaquil, Machala, Quito, and Santo Domingo de los Colorados all produced arrests. An April 18 DINAPEN raid on a brothel in Guayaquil rescued three 15- to 17-year-old girls and resulted in the detention of four men who allegedly prostituted the minors. In February the government appointed

special prosecutors to oversee trafficking cases in Guayaquil and Machala, two of the worst trafficking areas. The special prosecutor appointed in Quito in 2005 also continued to work on cases. A police unit to combat alien smuggling formalized a cooperative relationship with DINAPEN and judicial police to investigate trafficking cases.

The government cooperated in international investigations of trafficking. In August the president approved a national antitrafficking plan to coordinate strategy among the government agencies and earmark funds for that purpose, and subsequently an operational plan was adopted.

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. NGOs assisted more than 1,000 victims of trafficking or trafficking-related crimes during the year. The government signed agreements with a private trafficking victims' shelter to provide witness protection.

The government implemented a nationwide trafficking awareness and prevention campaign in which the first lady played a leadership role. The government's National Institute for Children and Families spent more than one million dollars in its annual antitrafficking campaign. The government also promoted a hot-line number to identify victims, provide assistance, and increase arrests.

The government conducted a two-day media training session on trafficking for television, radio, and print journalists. In June authorities also launched a million-dollar year-long public awareness campaign and in October began an anti-sexual tourism campaign. The Victim and Witness Protection program assisted 43 trafficking victims during the year.

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, and the government effectively enforced the law. 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 national elections, the Supreme Electoral Tribunal printed presidential election ballots in Braille, provided sign language translators, and made efforts to ensure that voting precincts were fully accessible to persons with disabilities. However, accessibility to some voting precincts was difficult. Observers reported seeing numerous persons with disabilities throughout the day being assisted by the military and others to ensure they were able to access their voting tables. Although ballots in Braille for the presidential ticket were to be provided nationwide, some voting precincts reported never receiving such ballots.

A December 2005 law requires the hiring of persons with disabilities in all public and private enterprises with more than 25 employees; there was no information on its implementation by year's end.

National/Racial/Ethnic Minorities

The estimated 600,000 Afro-Ecuadorian citizens suffered widespread poverty and 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 asserted 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. 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, including kidnapping oil workers in attempts to win a share of oil revenues and a voice in natural resource and development decisions. In November in the northwestern province of Sucumbios, indigenous villagers from Tarapoa took over the Andes Petroleum installations and kidnapped approximately 700 oil workers. Andes Petroleum officials later agreed to a series of villager demands

for employment.

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 Amazon, indigenous groups asserted that 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 illegal lumber.

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.

In March Quito police used force to suppress CONAIE demonstrations (see section 2.b.).

There were no developments in the 2004 case in which two unidentified individuals shot at Leonidas Iza, president of CONAIE, or in the killing of Maria Lalbai by members of the military during a protest in 2004.

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 a credible NGO, homosexuals, transsexuals, and transvestites were subjected to cruel, inhumane, and degrading treatment by the police. They 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 (see section 1.c.).

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 sets the number of workers required for an establishment to be unionized at 30, which the ILO's Committee on Freedom of Association considered too stringent a limitation at the plant workers' council level. Some companies took advantage of this law by subcontracting with several shell companies, each of which has less than 30 workers. A law enacted in June provides subcontracted workers with the right to freedom of association, the right to bargain collectively, and to legal protection against antiunion discrimination. The Labor Ministry is responsible for enforcing the new law.

While employees of state-owned organizations enjoyed rights similar to those in the private sector, the law prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. However, most public employees maintained membership in a labor sector association; such associations are not allowed to strike or bargain collectively (see section 6.b.).

The labor code requires workers in state enterprises to be represented by only one 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. In September a group of 48 employees at the Transnavo shipping company attempted to unionize and were fired. The unionists filed for compensation and the case was 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 and includes a provision that striking public sector workers are liable to between two and five years in prison; however, there were frequent "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

While the law prohibits forced or compulsory labor, including by children, there were reports that children were trafficked for labor (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace and defines acceptable working conditions. Although the government sought to enforce the law, 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 and \$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 government employed 23 child labor inspectors on a contract basis to inspect 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. During the year the Ministry of Labor issued 100 citations to employers for child labor law violations.

While the Ministry of Labor, Ministry of Social Welfare, and the Minors' Tribunals were charged with enforcing child labor laws, enforcement was ineffective. A 2005 study by the Ministry of Labor, the Institute for the Child and Family, and the National Committee for the Progressive Eradication of Child Labor found that 550,000 children between ages five and 14 (approximately 15 percent of children in this age group) were engaged in labor not permitted by law, primarily working in rural areas in the informal sector.

More than 40 percent of all children lived in rural areas, and many left school at an early age to do unpaid agricultural work for their families.

In August the Ministry of Labor hired 28 permanent child labor inspectors and seven support staff, whose sole function is to inspect companies throughout the country, monitor whether children are employed, and impose fines for violations. Through December the inspectors conducted approximately 1,486 workplace inspections and found approximately 93 minors under age 15 and 104 adolescents between 15 and 17 years old. The ministry will reinvest some part of the fines collected in the inspection program. The National Committee for the Progressive Elimination of Child Labor also has 30,000 education scholarships available for children identified as child laborers.

The Ministry of Labor has a three-officer Division for Child Labor, which 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. As of July 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. However, 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.

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.