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U.S. Department of State

Ecuador Country Report on Human Rights Practices for 1996

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ECUADOR

Ecuador is a constitutional republic with a president and an 82-member unicameral legislature chosen in free elections. President Abdala Bucaram's governing coalition controls only 30 seats in the Congress. Congress has sweeping powers to question and censure cabinet ministers; such censure results in automatic dismissal of the minister in question. This is often used as a political tool by opposition political parties. Members of the Supreme Court preside over a judiciary that is constitutionally independent but in practice is susceptible to outside pressure.

The military enjoys substantial autonomy, reinforced by guaranteed revenues from the nation's oil exports, as well as from civil aviation, shipping, and other commercial sectors. The military has maintained a low profile in domestic politics since the return to constitutional rule in 1979. The National Police, responsible for domestic law enforcement and maintenance of internal order, falls under the civilian Ministry of Government and Police. There continued to be credible allegations of human rights abuses by the police and, in some isolated cases, members of the military.

The economy is based on private enterprise, although there continued to be heavy government involvement in key sectors such as petroleum, utilities, and aviation. The gross domestic product of \$1,559 per capita provides most of the population with a low standard of living. The inflation rate for year was 26 percent. The principal exports are oil, bananas, and shrimp, which are the country's leading sources of foreign exchange. Manufacturing for regional export markets is of growing importance. Most citizens are employed in the urban informal sector or as rural agricultural workers; rural poverty is extensive, and underemployment is high.

The most fundamental human rights abuse stems from shortcomings in the politicized and inefficient legal and judicial system. People are subject to arbitrary arrest; once incarcerated, they may wait years before coming to trial unless they resort to paying bribes. Other human rights abuses included isolated instances of extrajudicial killings; torture and other mistreatment of prisoners and detainees by the police; poor prison conditions; government failure to prosecute and punish human rights abusers; and violence and pervasive discrimination against women, Afro-Ecuadorians, and indigenous people. In August the Supreme Court resolved a controversial human rights case involving those accused of a 1993 ambush of a joint military and police riverine unit, by absolving the seven peasants of murder charges the grounds that their confessions were obtained through torture. In September the President established a Truth and Justice Commission to investigate human rights abuses since the 1979 restoration of democracy.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of politically motivated killings. There continued to be credible reports of police involvement in extrajudicial killings, although the number of such reports declined significantly. The police often acted with impunity in such cases, because disciplinary action is the responsibility of the police itself. Although special police courts usually try cases involving police officers as defendants, the Government in some cases revoked this right and tried officers in civil courts.

The Ecumenical Committee for Human Rights (CEDHU) reported a total of nine extrajudicial killings. Six of these involved individuals killed by the police in the course of pursuing criminals, one involved a drunk policeman killing a citizen, and two were apparently the result of personal fights between victims and off-duty policemen.

In February policemen in the Amazonian town of Sucumbios chased a young black man named Jose Landazuri into a swamp, following reports that he had been involved in a robbery. Bystanders heard Landazuri shout "Don't shoot me," followed by the sound of gunfire. The police left the swamp without Landazuri. The family later found the body of Landazuri in the swamp with a bullet through his forehead. A police investigation concluded that he had been shot while resisting arrest.

On September 17, police shot and killed an alleged criminal, 16-year-old Miguel Manrique, during a drug raid on his house in the La Toja neighborhood of Quito. The police broke into Manrique's house without a warrant and said they shot him in a scuffle. The family claims that the youth was sleeping when the police broke in, and that the police shot him in the face at close range while he was wiping the sleep out of his eyes. On October 2, after a public outcry a criminal court ordered the arrest of police sergeant Ulvio Munoz in connection with Manrique's murder.

There were also instances in which citizens took the law into their own hands, leading to mob violence that resulted in deaths (see Section 1.e.). Faced with a growing number of such cases and complaints from human rights groups that the police were tolerant of vigilante justice, late in the year the police began to crack down on the practice. There were a number of news reports of police saving criminals from lynchings. For example, on September 30, policemen in the poor neighborhood of Santa Elena, Machala, rescued a thief who had been tied to a post by a crowd, beaten, and doused with gasoline. As members of the crowd looked for a match, the police cut him loose and took him to a hospital.

There were no reports of individuals killed by the military. A provincial court is investigating the apparent death of one Peruvian at the hands of local authorities in 1995 (see Section 1.b.).

In August a former policeman published a book and gave a series of interviews in which he claimed that police special units had participated in the execution of suspected leftist guerrillas during the 1980's. His revelations were questioned by some, but prompted Congress to create an investigating committee in September. Among other information, the former policeman provided the location of two alleged clandestine graveyards where he claimed the police buried the bodies of prisoners killed during interrogations in 1984-88. The Government promised a full investigation. Initial surveys of the sites by members of the press failed to indicate the presence of buried bodies.

Attorney General Leonidas Plaza told reporters on October 2 that the Inter-American Court of Human Rights had no jurisdiction in the case of Consuelo Benavides, a school teacher whom the army killed in 1985 because of alleged subversive activities. Plaza said that the courts had already tried the case and found several members of the military guilty. He noted that Congress authorized an indemnity to the Benavides family but said the country does not have \$10 million the family seeks. President Bucaram told the press earlier that the Benavides family has a just claim, but that the Government has no money to pay it. He said that the Benavides family should seek compensation from then-President Febres Cordero, as the Bucaram Government had not committed the crime. The Benavides case is the first Ecuadorian case before the Inter-American Court. Human rights groups note that while the Government did eventually prosecute some of the military personnel involved in this murder, several of the most high-ranking suspects "escaped" from military confinement, and the statute of limitations spared others due to slow progress of the case in court.

b. Disappearance

There were no reports of politically motivated disappearances.

In the wake of border hostilities with Peru in 1995, the Government of Peru claimed that 15 of its citizens had disappeared at the hands of Ecuadorian authorities. The Provincial Court in Loja province is investigating the apparent death of one Peruvian at the hands of local authorities, and another Peruvian detained in a military hospital in Quito has not been accounted for. However, there is no evidence that the 13 other Peruvian nationals were ever in Ecuador.

In September President Bucaram established a Truth and Justice Commission to investigate human rights abuses since the 1979 restoration of democracy. The Commission, made up of representatives of human rights organizations, the Church, and the Government, will have no judicial powers but is to report on unresolved human rights cases. In its first week, the Commission received 211 allegations of disappearances, although only 14 persons were alleged to have disappeared due to actions by agents of the State.

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

Although the law prohibits torture and similar forms of intimidation and punishment, police continued to physically mistreat suspects and prisoners, usually with impunity. The CEDHU regularly published detailed reports on suspects who charged the police with torture. In these reports the CEDHU frequently named police officials alleged to be responsible and often included photographs of the victims with their wounds. In most cases, the police appeared to have abused such persons during investigations of ordinary street crime. According to the CEDHU and other human rights organizations, the victims reported that the police beat them, burned them with cigarettes, applied electric shocks or threatened

them psychologically. In Guayaquil a television camera crew videotaped a police officer stomping on the head and kicking the face of a robbery suspect who had already been handcuffed and was lying on the ground.

Defense Ministry officials continued to deny mistreatment by the military of four Colombians whom they detained in August- September 1995 and who, according to the police, had suffered numerous contusions by the time the military handed them over to police custody. The Defense Ministry claimed that the contusions resulted from the detainees throwing themselves against the walls and floor during interrogation.

The Supreme Court rendered a landmark decision in August rejecting the admissibility of confessions obtained through torture. It overturned the conviction of 7 peasants accused of participating in the December 1993 ambush of a joint military and police riverine patrol along the Putumayo River in which 11 soldiers and police officers died. A lower court, which had found the defendants guilty of murder, acknowledged that the only evidence against the defendants consisted of their own confessions and noted in the court record that these confessions had been obtained through torture. The police investigation further substantiated that the defendants had been physically abused while in military custody. The "Putumayo seven" were released from prison in September, following 2 1/2 years of detention. Human rights groups point to the Supreme Court decision as a factor that may encourage the police to cease the use of torture to extract confessions and turn to legitimate, if more resource-intensive, methods of investigating common crime.

The law permits police or military courts to try police officers and military defendants in closed sessions, in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court in particular does not announce verdicts or punishments, if any, creating the strong impression that the police are immune from prosecution.

Conditions in detention centers generally continued to be poor. Prisons in the tropical coastal areas tend to be worse than those in the temperate highlands. Overcrowding is a chronic problem, although conditions are notably better in the women's prison in Quito than in other facilities. A midyear census of the prison system found that 9,369 male prisoners were crowded into prisons designed to hold 5,049. There are no separate facilities for hard-core or dangerous criminals, nor are there effective rehabilitation programs.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution and the Penal Code provide that no one may be deprived of liberty without a written order from a governmental authority, but the authorities often violated these legal protections against arbitrary arrest or detention. By law, the authorities must issue specific written orders within 24 hours of detention--even in cases in which a suspect is caught in the act of committing a crime--and must charge the suspect with a specific criminal offense within 48 hours of arrest. All detained persons may have the legality of their detention reviewed within 48 hours of their arrest. This review is supposed to be conducted by the senior elected official (usually the mayor) of the locality in which the suspect is held. Regardless of the legality of a detention, a prisoner may only be released by court order. In some cases, detainees who are unaware of this, or who do not have the funds to hire a lawyer, may remain in prison for an extended period before being released. Bail is not generally available. Families of detainees sometimes intervene in an attempt to secure the prisoners' freedom through illegal means.

In its first months after taking office in August, the Bucaram Government ordered the arrest of suspected corrupt civil servants, as well as some business executives, without proper evidence. Although the authorities released them within a few days in most cases, this practice led to numerous complaints of arbitrary arrest.

Human rights organizations reported occasional cases of incommunicado detention, although the law prohibits this practice. Despite provisions of the Penal Code, the police often detained suspects without the required written order. Even when an order was obtained, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. In many instances, the system was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges. The authorities frequently detained suspects longer than 24 hours before court orders were signed and often failed to bring charges against suspects within 48 hours of arrest. Preventive detention up to and including trial is legal under certain circumstances.

The Government does not use exile as a method of political control.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary. In practice, however, the judiciary is susceptible to outside pressure.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. Despite efforts begun in 1992 to depoliticize and modernize the court system, the judiciary continues to operate slowly and inconsistently. Judges reportedly rendered decisions more quickly or more slowly depending on political pressure or the payment of bribes. However, the norm is for lengthy periods before cases come to the courts.

The failure of the justice system led to a growing number of cases of communities taking the law into their own hands (see Section 1.a.). Through the first week of December, there were 23 reports of fatal lynchings and burnings of alleged criminals by enraged citizens. These occurred particularly in indigenous communities and poor neighborhoods of the major cities where there is little police presence. One of the most dramatic cases occurred in July in the town of Mana, Cotopaxi province, when an angry crowd stopped a police vehicle transporting a group of five car thieves and, after wresting them from police custody, beat them to death and burned their bodies. The group reportedly had killed an individual in the course of stealing his car only days earlier, and the family of the victim and other townspeople ambushed the police escort to exact their own justice.

The law provides for internationally accepted due process rights for criminal defendants, but the authorities often did not observe these rights in practice. By law, the accused is presumed innocent until proven guilty, and defendants have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and may confront and cross-examine witnesses. Although a public defender system exists, in practice there are relatively few attorneys available to defend the large number of indigent suspects.

The legislature amended the Constitution in 1995 to stipulate that no testimony taken from a prisoner may be used as evidence in court unless the individual's lawyer was present at the taking of testimony. Implementing legislation, however, remains to be passed.

Trial is supposed to begin within 15 to 60 days of the initial arrest, but in practice, initiation of the trial

phase can take years. Less than 40 percent of all prisoners have been to trial. Indigenous people and other minorities are disproportionately affected by these delays as they are more likely to be poor and unable to buy their way out of pretrial detention. However, there was no evidence of a systematic effort to discriminate against women or minorities.

A foreign assistance program begun in 1994 has enabled the courts to computerize the National Register of Prisoners. Use of this system made it possible for the courts to track prisoners' status more easily. Since its inception, the courts released over 800 prisoners, who had either completed their sentences or who had never been tried but had served the maximum sentence for the alleged crime.

There were no reports of political prisoners.

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

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

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech, and the authorities generally respected this provision in practice, but with some notable exceptions. A case remains before the Supreme Court in which an independent congressman, Fernando Larrea, was charged with treason for remarks he made on a provincial radio station in 1995 in which he ridiculed the president of the Supreme Court and the commander of the army. (He spoke derisively of the role the army commander had played in the border hostilities with Peru.) While not releasing the tape or transcript of Larrea's intemperate remarks, the military proceeded to charge Larrea with treason under the National Emergency Decree then in force and initiated proceedings against him in a military court. The Supreme Court has yet to determine if the military court has jurisdiction.

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

Ecuador has a free and vigorous press. Ownership of the media is broad based, and editorials represent a wide range of political views and often criticize the Government. However, some degree of self-censorship in the print media occurs, particularly with respect to politically sensitive issues or stories about the military and its related industries.

The Government does not interfere in issues involving academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the rights of free assembly and association for peaceful purposes, and the Government generally respected these rights in practice. Public rallies require prior government permits, which are generally granted, although exceptions occur. Numerous labor and student demonstrations took place without incident in the capital and the outlying regions. In general the security forces

intervened in demonstrations only when there was violence against bystanders or property. During a strike in March by bus drivers in Quito, the authorities called in the military to clear blocked roads after 5 days of inaction by the police. The military injured several striking drivers in the course of the operation.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. Numerous foreign religious orders and missionary groups are active.

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

The Constitution provides for these rights, and the Government respects them in practice. The Government cooperates with the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of provision of first asylum did not arise. There were no reports of forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Since the return to civilian rule in 1979, citizens have actively exercised their right to change their national and local governments. There were 18 political parties spanning the ideological spectrum that participated in the 1996 national elections, 11 of which won representation in Congress. These elections resulted in the peaceful transfer of power from a center-right government to a populist government, as well as a realignment of power within the legislature.

Voting is mandatory for literate citizens over 18 years of age and voluntary for illiterate citizens. The law does not permit active duty members of the military to vote. The Constitution bars members of the clergy and active duty military personnel from election to Congress, the presidency, or vice presidency.

Traditional elites tend to be self-perpetuating. Consequently, very few women, Afro-Ecuadorians, and indigenous people are found in high positions in government, although no specific laws or policies prevent women or minorities from attaining leadership positions. Women hold 4 of 82 seats in Congress. In July voters elected Rosalia Arteaga as the first female Vice President in the country's history.

There are no Afro-Ecuadorians in Congress or in any senior level government jobs. Afro-Ecuadorian political leaders in Esmeraldas province (whose population is largely Afro-Ecuadorian) attribute this in part to the lack of identification of the Afro-Ecuadorian population with their own politicians.

The indigenous movement, which long shunned traditional politics, formed an electoral movement called Pachakutik (which means "cataclysmic change" in Quichua) and ran candidates for national, provincial, and local office in the elections. Pachakutik succeeded in electing eight members of congress (one national deputy and seven provincial deputies) and mayors of several cities, including Cuenca--the third largest city. Although Pachakutik only received about 8 percent of the vote nationwide, its representation in Congress and at the provincial and municipal level assures the indigenous community greater voice in government. Pachakutik's success also forced traditional political parties to focus attention on issues of importance to the indigenous population--long neglected by the political process.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of

Alleged Violations of Human Rights

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

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

The Constitution prohibits discrimination based on race, religion, sex, or social status. However, women, Afro-Ecuadorians, and indigenous people face significant discrimination.

Women

Although the law prohibits violence against women, including within marriage, it is a widespread practice. Many rapes go unreported because of the victims' reluctance to confront the perpetrators. Women may only file complaints against a rapist or an abusive spouse or companion if they produce a witness. While some communities have established their own centers for counseling and legal support of abused women, the Government only began to address this question seriously with the formation of the "Comisaria de la Mujer," or Women's Bureau, in 1994. Although this office can accept complaints about abuse of women, it has no authority to act on them.

A 1995 Law Against Violence Affecting Women and Children, drafted by a coalition of women's organizations, criminalizes spousal abuse for the first time, including physical, sexual, and abuse. It also creates family courts and reforms the Penal Code to give courts the power to separate an abusive spouse from the home. Congress approved the law in record time.

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

Women's groups accused the Bucaram administration of ignoring the cause of reducing violence against women because of the President's steadfast support for his Minister of Energy, who made denigrating public statements about women and who has been accused of physically assaulting women.

Children

The Government is committed in principle to the welfare of children but has not taken effective steps to promote it. The Government rarely enforces the constitutional requirement of education through the age of 14.

There is no societal pattern of abuse against children. Government resources to assist children have traditionally been limited, although it instituted a program to care for the children of the working poor called "Operation Child Rescue." Several private organizations are very active in programs to assist street children, and the U.N. Children's Fund also runs a program in conjunction with the Central Bank. Especially in urban areas, the children of the poor often experience severe hardships. It is common to see children as young as 5 or 6 years of age selling newspapers or candy on the street to support

themselves or to augment the family income. Also, there are instances of prostitution by girls under 18 years of age in urban areas. In rural areas, young children often must leave school at an early age to help out on the family's plot of land.

People with Disabilities

There is no official discrimination against disabled persons in employment, education, or the provision of other state services. However, there are no laws to guarantee disabled people access to public buildings or services, nor are they provided any other special government assistance.

Indigenous People

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

Indigenous people enjoy the same civil and political rights as other citizens and also have several special privileges designed to allow them to manage their own affairs within their own communities. This is particularly true in the Amazon area where indigenous groups have claim to specific tracts of land. These groups also have begun to play an active role in decisionmaking with respect to the use of their lands for oil exploration and production, by lobbying the Government and enlisting the help of foreign nongovernmental organizations. Environmental groups and indigenous organizations continued to blame oil companies for causing major environmental damage and to criticize their damage control efforts as insufficient.

Despite their increasing political influence (see Section 3) and the efforts of grassroots community groups, which were increasingly successful in pressuring the central Government to assist them, Indians continue to suffer discrimination at many levels of society. In an August beauty pageant in the predominantly Indian town of Otavalo, young women of indigenous background were denied participation in the contest based on their Indian heritage. Even after this blatant discrimination received national attention in the press and had provoked an appeal by President Bucaram, organizers of the event refused to admit contestants of Indian background.

National/Racial/Ethnic Minorities

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

There are five major Afro-Ecuadorian organizations active in the country, and these organizations estimate that Afro-Ecuadorians account for 700,000 people, or about 6 percent of the total population. While the presence of Afro-Ecuadorians has grown in the fi