



The State Department web site below is a permanent electro information released prior to January 20, 2001. Please see [y](#) material released since President George W. Bush took office. This site is not updated so external links may no longer func [us](#) with any questions about finding information.

NOTE: External links to other Internet sites should not be c endorsement of the views contained therein.



U.S. Department of State

Ecuador Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

ECUADOR

Ecuador is a constitutional republic with a president and an 82-member unicameral legislature chosen in free elections. Interim President Fabian Alarcon was elected by Congress to an 18-month term in February after Congress voted to dismiss his predecessor on the grounds of "mental incompetence." Congress also has sweeping powers to question and censure cabinet ministers; such censure results in automatic dismissal of the minister in question and often is used as a political tool by opposition party congressmen. Members of the Supreme Court preside over a judiciary that is constitutionally independent, but in practice 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 per capita gross domestic product of \$1,669 provides most of the population with a low standard of living. The inflation rate for the year was 30 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, inefficient, and corrupt legal and judicial system. People are subject to arbitrary arrest; once incarcerated, they may wait years before being convicted or acquitted unless they pay bribes. More than one-half the prisoners in jail have not been formally sentenced. Other human rights abuses included isolated instances of extrajudicial killings; torture and other mistreatment of prisoners and detainees by the police; poor prison conditions; and violence and pervasive discrimination against women, Afro-Ecuadorians, and indigenous people. The Government failed to prosecute and punish human rights abusers. Following a referendum in May that called for the Supreme Court to be depoliticized, and in response to continued public demands for profound reform of the justice system, Congress replaced the entire Court, selecting the justices from a list of candidates nominated by designated civic groups and chosen by a panel of civic leaders. The Truth and Justice Commission was no longer active; an Ombudsman was chosen, but had not yet begun work by year's end.

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. Through late September, the Ecumenical Committee for Human Rights (CEDHU) reported a total of nine extrajudicial killings. Seven of these involved individuals killed by police in pursuit of criminals; two involved suspects who died of injuries after being arrested by police.

In January three prisoners charged with killing policemen "escaped" from the penitentiary in Guayaquil. A television news team filmed police recapturing all three alive and then showed one of them, who had been wounded by a gunshot to the leg, being beaten by police as he was put into a police truck while the other two were shown in handcuffs in police custody. The wounded prisoner was declared dead on arrival at a local hospital. Later television footage showed the dead bodies of the other two prisoners being loaded into a police vehicle. Despite video evidence that all three were recaptured alive, the police claimed that they were all shot while escaping. Police officials promised an internal investigation of the killings, but did not report publicly the results of the police inquiry. At year's end, no one had been charged with wrongdoing.

In March police in the town of Machala, responding to a disturbance call at a bar, arrested an inebriated patron, Anibal Aguas. Aguas was beaten and taken into custody. Later that night his wife was notified that he had died of a cerebral injury that an autopsy showed was caused by trauma. The authorities later detained one of two police sergeants involved in Aguas' arrest and remanded him to a police court for a disciplinary investigation. The other failed to answer a summons and was a fugitive at year's end.

In Chimborazo province, the police stopped Mario Garcia in March and, after a verbal exchange, severely beat him, according to several witnesses. Garcia died several days later from trauma-induced brain damage. The authorities detained three police officers, and the case was before a civilian judge in Chimborazo at year's end.

In August Guayaquil police shot and killed three men after mistaking them for wanted criminals. Police officials first claimed that the suspects had died in a firefright; then, after days of public protests led by

the victims' families, the National Police Inspector General disclosed that police had planted evidence on the three men to cover up the mistake. As a result, the police commander in Guayas province was relieved of his duties and the policemen involved were suspended from duty pending disciplinary action.

In October 1996, a Quito court ordered the arrest of police sergeant Ulvio Munoz in the killing of a 16-year-old in the La Toja neighborhood during a drug raid in September of that year. Charges against him were still under consideration at year's end.

Investigation by judicial officials and human rights monitors of sites identified in 1996 by a former policeman as clandestine graves did not reveal any human remains.

There were also instances in which citizens took the law into their own hands, leading to mob violence that resulted in deaths (see Section I.e.). Despite a police program launched in 1996 to crack down on such violence, there were continued reports of vigilante justice, often involving indigenous communities acting against presumed criminals in their own community. In one particularly egregious case, on August 10 approximately 200 indigenous villagers in the province of Cotopaxi watched as some of their neighbors burned a 17-year-old boy caught stealing cattle. After he was set afire, someone in the crowd killed him with a pistol shot.

b. Disappearance

There were no reports of politically motivated disappearances.

In January Angel Heriberto Hinojoza was stopped in Pichincha province by three men, one in a police uniform; he attempted to flee, but was shot in the leg and taken away in the trunk of an unmarked car. Presented with a writ of habeas corpus, the police told family members that they had no information on Hinojoza's whereabouts. The family continued to press without success for news about Hinojoza.

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.

The law permits police or military courts to try police officers and military defendants in closed sessions, in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court does not announce verdicts or punishments, 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. As of September, about 9,850 male prisoners were crowded into prisons designed to hold 5,049. The Government announced a major campaign to reduce prison crowding by building more prisons, ensuring that prisoners eligible for release were released, and by pardoning prisoners over the age of 65 or who have

terminal disorders. 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 challenge the legality of their detention within 48 hours of their arrest, but in practice few such petitions are brought. This review is 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 be released only by court order. In some cases, detainees who are unaware of this, or who do not have the funds to hire a lawyer, may remain in prison for an extended period before being released. Bail is not generally available, and the law prohibits it in narcotics cases. Families of detainees sometimes intervene in an attempt to secure the prisoners' freedom through illegal means.

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 Inter-American Court of Human Rights ruled unanimously on November 12 that the Government had violated due process provisions under the American Convention on Human Rights and Ecuadorian law in connection with the arrest, investigation, and pretrial detention of Ivan Suarez Rosero. Without considering the merits of the drug charge against Suarez, the Court found unlawful Suarez's 4-year preventive detention without a finding of guilt. The Court also held that a section of the Penal Code, which exempts those charged with drug violations from protection of a law that mandates other prisoners' release from excessive detention, violated the Convention. The Court called on the Government to pay Suarez compensation and to prosecute those responsible for violating his rights.

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 delays before cases come to the courts.

The May referendum approved by citizens included a call to depoliticize the judicial system and, in particular, the Supreme Court. In September Congress dismissed all 31 justices (many of them chosen during ousted president Bucaram's incumbency), and elected new ones in early October. The 31 new justices were chosen from a group of 54 candidates compiled by an independent panel in a complex process intended to balance political and social interests.

The failure of the justice system led to a growing number of cases of communities taking the law into their own hands. There continued to be reports of fatal lynchings and burnings of suspected criminals by enraged citizens (see Section 1.a.). 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 alleged car thieves and, after wresting them from police custody, beat them to death and burned their bodies. The thieves 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 convicted and sentenced. In narcotics cases, unlike other crimes, the law prohibits bail and stipulates that a police report and the defendant's pretrial statement constitute "a grave presumption of guilt" if supported by the facts of the case. The effect is to increase the number of defendants detained on such charges pending final resolution of their cases. In December the Constitutional Court ruled both provisions unconstitutional, but the impact on narcotics cases (40 percent of prisoners are detained on narcotics charges) was not clear at year's end. 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.

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 1,000 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. There are frequent charges of slander and libel brought by and against public figures, but few result in final decisions or judicial relief. One former independent congressman was accused of treason and brought before a military court because of his criticism of the military. He successfully appealed to the Supreme Court for relief, winning a decision that he could not be tried in a military court.

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.

There is 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 2 days of widespread road blockages by groups demanding that the National Assembly to consider constitutional amendments be elected and begin work in 1997, there were no reports of serious injuries resulting from confrontations between protesters, the military, and the police.

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. In February following widespread peaceful protests against the Government, Congress voted to remove former President Bucaram on grounds of mental incompetence and to replace him with interim President Alarcon. Voters overwhelmingly ratified this peaceful transition in a May referendum that also called for a National Assembly to reform the Constitution prior to new presidential and congressional elections in May 1998.

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.

On November 30, voters elected the 70 members of the new National Assembly, which is charged with a broad mandate to undertake political reforms. The makeup of the Assembly is similar to that of the Congress; the established parties won 54 seats, and coalitions will be necessary in order to reach decisions. The Assembly convened on December 20 and elected former president Osvaldo Hurtado as its president. He said that the Assembly would tackle electoral reform first, and then turn to other issues such as modernization of the state, social security reform, and the promotion of foreign investment.

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 prevent women or minorities from attaining leadership positions. Women hold 5 of 82 seats in Congress. In August Congress elected Alexandra Vela as the first female vice president of Congress in the country's history; however, she resigned soon thereafter in order to run successfully for the National Assembly, to which eight women were elected. One Afro-Ecuadorian serves as an alternate member of Congress and one was elected to the National Assembly, but there are no other Afro-Ecuadorians in any senior level government jobs.

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 1996 elections. Pachakutik succeeded in electing a member of congress, seven provincial deputies, and mayors of several cities, including Cuenca--the third largest city. Although Pachakutik received only about 8 percent of the vote nationwide, its representation in Congress and at the provincial and municipal level assures the indigenous community a greater voice in government. It won seven seats in the new National Assembly, three of which are held by indigenous leaders, including one woman. 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.

The Truth and Justice Commission, established in 1996 to investigate reports of past rights abuse, is no longer active. The office of Ombudsman was created to ensure ongoing attention to human rights issues. The elected Ombudsman resigned following a dispute with Congress over his term of office. By year's

end, Congress had not accepted his resignation, nor had he begun to work.

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. If a victim later marries her rapist, the victim often drops her complaint, and the State's case against the rapist continues slowly, if at all. 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.

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.

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 growing 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 discrimination received national attention in the press (and a court had ruled the practice illegal the year before), 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; they 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 fields of sports and culture (the country's most prominent soccer stars and 1996 Miss Ecuador were Afro-Ecuadorian), educational opportunities continue to be limited.

The press has focused on lingering racism among all strata of society. Afro-Ecuadorian organizations note that despite the absence of official discrimination, societal discrimination continues to affect them. For example, they assert that the

police stop Afro-Ecuadorians for document checks with greater frequency than other citizens.

Section 6 Worker Rights

a. The Right of Association

The Constitution and Labor Code provide most workers with the right to form trade unions. Members of the police and the military, and public sector employees in nonrevenue producing entities are not free to form trade unions. The 1991 Labor Code reforms raised the number of workers required for an establishment to be unionized from 15 to 30, which the International Labor Organization's Committee on Freedom of Association considered too stringent a limitation at the plant workers' council level.

While employees of state-owned organizations enjoy rights similar to those in the private sector, the law technically prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. Nevertheless, most public employees maintain membership in some labor organization, and there are frequent "illegal" strikes. Despite official threats, the Government rarely takes action against striking public workers. In November Congress approved constitutional reforms that outlaw strikes that paralyze key public services, including schools. Although the five umbrella organizations are politically independent, the two largest single labor unions, the Teachers' Union and the Union of Social Security Workers, are allied with the Democratic Political Movement, a far-left socialist party.

Approximately 12 percent of the work force is organized. There are four large labor centrals or confederations, three of which maintain international affiliations. None of the main labor centrals is firmly connected to any one political party, and there are no ties between the Government and any labor union.

There are few restrictions on the right of workers to strike, although a 10-day cooling-off period is required before a strike is declared. The Labor Code revisions limit solidarity strikes or boycotts to 3 days, provided that they are approved by the Labor Ministry. In a legal strike, workers may take possession of the factory or workplace, thus ending production at the site, and receive police protection during the takeover. The employer must pay all salaries and benefits during a legal strike; the Labor Code protects strikers and their leaders from retaliation. The only significant strikes were by public sector employees such as teachers, social security, and medical workers. None of the strikes resulted in violence.

b. The Right to Organize and Bargain Collectively

The labor market is highly segmented, with a minority of workers in skilled, usually unionized, positions in state-run enterprises or in medium to large industries. Most of the economically active population is employed in the agricultural sector or the urban informal sector; the vast majority of these workers are not organized. The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests. Although approximately 12 percent of the work force is organized, collective bargaining agreements cover only one-quarter of these workers.

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

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

c. Prohibition of Forced or Compulsory Labor

The Constitution and the Labor Code prohibit compulsory labor, and there were no reports of it in general, nor of forced or bonded labor by children.

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

The Constitution establishes that children must attend school until 14 years of age. However, because of the lack of schools in many rural communities and the need for children to work, this provision is rarely enforced. The law prohibits forced or bonded labor by children, and there were no reports of such practices (see Section 6.c.). The law prohibits persons younger than 14 years old from working, except in special circumstances such as apprenticeships. It requires those between the ages of 14 and 18 years to have the permission of their parent or guardian to work. The law prohibits children between the ages of 15 and 18 years from working more than 7 hours per day or 35 hours per week, and it restricts children below the age of 15 years to a maximum of 6 hours per day and 30 hours per week. In practice, the Ministry of Labor fails to enforce child labor laws. In rural areas many children attend school only sporadically after about 10 years of age in order to contribute to household income as farm laborers. In the city many children under 14 years of age work in family-owned "businesses" in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers.

e. Acceptable Conditions of Work

The Ministry of Labor has the principal role in enforcing labor laws and carries this out through a corps of labor inspectors who are active in all 21 provinces. The Labor Code provides for a 40-hour workweek, a 15-day annual vacation, a minimum wage, and other employer-provided benefits, such as uniforms and training opportunities.

The Ministry of Labor sets the minimum wage every 6 months in consultation with the Commission on Salaries, but Congress may also adjust it. The statutory minimum wage is not adequate to provide a decent standard of living for a worker and family. As of September, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$160 (S/646,167). Most organized workers in state industries and formal sector private enterprises earned substantially more than the minimum wage and also received significant other benefits through collective bargaining agreements. The majority of workers, however, work in the large informal and rural sector without recourse to the minimum wage or legally mandated benefits.

The Labor Code also provides general protection for workers' health and safety on the job. A worker may not leave the workplace of his own volition, even if there is a hazardous situation. The worker is allowed to request that an inspector from the Ministry of Labor come to the workplace and confirm the hazard; that inspector may then close down the workplace.

The Government enforces health and safety standards and regulations through the Social Security

Institute. In the formal sector, occupational health and safety is not a major problem. However, there are no specific regulations governing health and safety standards in the agricultural sector and, in practice, there is no enforcement of safety rules in the small mines that make up the vast majority of the mining sector.

[end of document]



[Return](#) to 1997 Human Rights Practices report home page.

[Return](#) to DOSFAN home page.

This is an [official U.S. Government source](#) for information on the WWW. Inclusion of non-U.S. Government links does not imply endorsement of contents.