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U.S. Department of State

Ecuador Country Report on Human Rights Practices for 1998

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ECUADOR

Ecuador is a constitutional republic with a president and a 121-member unicameral legislature that was chosen in free elections on May 31. On July 12, voters elected President Jamil Mahuad, who took office on August 10 and is to serve through January 2003. A national constituent assembly approved extensive constitutional reforms, which also took effect on August 10. The reforms included the termination of the Congress' power to dismiss cabinet ministers and the reduction of fringe parties' influence in the Congress. 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 \$1,612 provides most of the population with a low standard of living. According to the World Bank, about 60 percent of citizens live in poverty; half of these live in extreme poverty. The inflation rate for the year was 45 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. Persons 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. The Supreme Court conducted open competitions to fill appellate judge positions and, at year's end, a newly constituted Judicial Council had begun to function, charged with modernizing the judicial system. In September Congress elected a new Ombudsman, who is a former Attorney General and a strong human rights advocate known for his independence.

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 11 extrajudicial killings. Police who reportedly were drunk killed four persons. In addition to the 11 persons killed by the police, 3 other persons were shot and killed by assailants identified as members of citizen groups known as neighborhood brigades. (Neighborhood brigades are civic defense groups organized by the national police to provide an anticrime presence in neighborhoods. They are not authorized to carry firearms.)

In Guayas province in January, after rural police had cleared a group of youths off the streets in the La Bocana neighborhood, a crowd closed in on the police station. Police fired shots from the station, killing Jose Ignacio Moreno Castro and wounding two others.

In May in Guayaquil, police shot and killed Wilter Arturo Guadamud Macias and Wilson Tomala Guzman. Onlookers told family members that the police arrested the two men and took them into custody; the police claimed that the two men were injured in a gun battle, arrested, and died in transit.

Later in May, also in Guayaquil, a drunken policeman shot and killed William Robles and wounded Geovanny Oviedo and Victor Robles when they came to Robles' assistance.

In late May, in Esmeraldas province, a drunken policeman detained Wilton Estupinan by shooting him in the leg, claiming that Estupinan had escaped earlier from jail. Estupinan was then beaten and jailed. The next day, he was moved to the city of Esmeraldas, briefly treated in a hospital, then jailed again, before his condition worsened and he was returned to the hospital where he died on May 27.

In June witnesses reported that five rural police in Guayas province arrested Leonardo Pita in a brothel and put him in a police car. Witnesses reported hearing a shot and later found Pita's body near the site. Pita's family filed a complaint in police court against those responsible for his death.

In June in Los Rios province, two rural policemen, who had earlier seized an illegal gun from a

nightclub patron, were involved in a dispute with that patron's father, Fernando Limones, who was accompanied by Tito Vera. Police shot and killed Vera and wounded Limones, who later died of his wounds. Police subsequently shot and killed Vera's brother Julian, according to witnesses.

In June in Guayaquil, two drunken policemen who had attempted to force taxi driver Jose Franco to drive them attempted to take his cab and, when he resisted, shot him fatally.

In July in Los Rios province, drunken policemen ordered youths off a street corner at 5 am, and when an argument ensued, the police shot and killed Javier Torres.

In October during violent antigovernment demonstrations, a stray bullet allegedly fired by a naval infantry soldier struck and killed one person in Guayaquil. A policeman was killed in Manabi when a hand grenade seized from protesters exploded in his hands. An innocent bystander was struck and killed by a stray bullet in Esmeraldas. A woman was struck and killed by a motor vehicle while crossing the street after fleeing a demonstration.

In Guayas in March witnesses reported to CEDHU that members of a neighborhood brigade shot and killed Jimmy Olvera. In April witnesses in Guayas reported that men whom they identified as members of another neighborhood brigade, despite the fact that the assailants' faces were covered, shot and killed Javier Gavilanez and Virgilio Davila and wounded Cesar Lastra.

During the year the Government resolved some lawsuits arising from extrajudicial killings by military and police officers in past years. The Government recognized official responsibility for the unlawful killing of Consuela Benavides, for the disappearances and presumed deaths of the Restrepo brothers, and for the fatal shooting of Esteban Villacreses. Following a finding of official wrongdoing by the Inter-American Commission on Human Rights (IACHR) in the Benavides case, the Government paid an indemnity to both the Benavides and Restrepo families. In the later case, the police officer responsible was sentenced to 10 years' imprisonment (see also Section 1.d.).

Authorities within the police justice system charged police officers in the January 1997 killing of three prisoners who had allegedly escaped from the penitentiary in Guayaquil. The case was pending at year's end.

There were also instances in which citizens took the law into their own hands, inciting mob violence that resulted in lynchings and burnings of suspected criminals (see Section 1.e.). Mobs killed 24 crime suspects in 1997 and lynched 12 in the first 5 months of 1998; individual lynchings continue to occur in all parts of the country. Dozens of townspeople helped beat murder suspect Washington Piloso to death in June in the town of Yaguachi. Residents caught Piloso on June 20 and accused him of killing an off-duty police officer during a robbery. They stripped him to his underwear and kicked him brutally while he crawled on the dirt street, police reported. The mob doused him with gasoline and was about to burn him alive when police intervened. Piloso died 2 hours later in a hospital. No one identified the attackers.

According to Amnesty International, on November 26 in Quito, eight unknown men kidnaped Saul Filormo Canar Pauta, a leader of the Ecuadorean Confederation of United Working Class Organizations. On December 3, a municipal worker found his body in a trash dump in Latacunga. His hands and feet were tied and his body showed signs of torture. Authorities suspect that he may have been killed by private landowners in retaliation for his activities organizing land invasions by squatters. An investigation was pending at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

There was no progress in resolving the January 1997 disappearance of Angel Heriberto 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 abuse suspects and prisoners, usually with impunity. In February bank guards in Quito arrested Guillermo Travez on suspicion of check fraud. The bank guards took him to the police station in the distant town of Tulcan and, en route, allegedly tortured him in an attempt to make him confess to the crimes. Police investigators also were reported to have abused Travez before he was released after a habeas corpus petition had been presented on his behalf. However, military police seized him again before he could leave.

The CEDHU has published one detailed report on suspects who identified specific policemen as having tortured them. In most cases, the police appeared to have abused such persons during investigations of ordinary street crime. The victims reported that the police beat them, burned them with cigarettes, applied electric shocks, or threatened them psychologically. There were also 13 reports of incidents involving physical mistreatment.

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. Prison overcrowding was reduced slightly by the release of several hundred drug addicts charged only with possession and prisoners charged with minor offenses who had been held in preventive custody for more than a year. The Constitution that took effect in August requires that prisoners charged with lesser offenses (carrying a maximum sentence of 5 years) and who have been detained for more than 1 year without a sentence shall obtain their freedom immediately. There are no separate facilities for hard-core or dangerous criminals, nor are there effective rehabilitation programs. New prisons have not been constructed due to lack of financial resources.

The 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. By law, the authorities must issue specific written arrest orders within 24 hours of detention--even in cases in which a suspect is caught 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. The senior elected official (usually the mayor) of the locality in which the suspect is held conducts this review. 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. Even when the police obtain a written arrest order, those charged with

determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. 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. Preventive detention up to and including trial is legal if a judge determines that it is necessary and if evidence that a crime has been committed is presented.

Following the 1997 ruling by the Inter-American Court of Human Rights that the Government had violated due process provisions in connection with the arrest, investigation, and pretrial detention of Ivan Suarez Rosero, the authorities released him. In the aftermath of the Suarez ruling, the Government moved quickly to settle several other cases that were under consideration by the Inter-American Commission on Human Rights and one--the Benavides case--that had been accepted by the Inter-American Court. Led by the then-Attorney General (and current Ombudsman), the Government took the unprecedented step of admitting fault officially and of negotiating and paying settlements to the families of Consuelo Benavides and the Restrepo brothers, for wrongful death, and to the Putumayo 11, a group of rural workers, for illegal arrest, detention, and torture (also see Section 1.a.).

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 law permits police or military courts to try police officers and military defendants in closed sessions, in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court does not announce verdicts or punishments, reinforcing the strong impression that the police are immune from prosecution. The constitutional reforms by the National Constituent Assembly placed both police and military justice under the control of the Supreme Court. However, the three systems had not yet been integrated by year's end.

The new Supreme Court that took office in 1997 publicly recognized the shortcomings of the judicial system and pledged to improve the quality and training of judges. In May the Supreme Court supervised the selection by open competition of all appellate judges. A new judicial council, charged with administering the court system and disciplining judges, took office in the fall.

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 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 egregious incident that, like many, was linked to purported cattle rustling, occurred in September in Manabi when a crowd of local farmers reportedly caught three men in the process of stealing cattle, shot and killed them, and then burned their bodies.

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.

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. Accused narcotics traffickers cannot obtain bail or be released on recognizance. The number of narcotics cases is likely to decline, however, following passage of a law decriminalizing possession of small amounts of narcotics by addicts for their own use.

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 have been able to track prison populations more accurately. In 1998, the courts used this system to help identify and release hundreds of accused minor offenders who had spent more than a year in preventive detention.

There were no reports of political prisoners.

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

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

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech, and the authorities generally respected this provision in practice, 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. In October a court tried former President Abdala Bucaram in absentia and convicted him of slandering Congresswoman Alexandra Vela.

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

The Government does not interfere in issues involving academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of free assembly for peaceful purposes, and the Government generally respected this right in practice. 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. In September protests in Quito against government austerity measures were marred by violence, with several policemen injured and property damaged.

The Constitution 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 respects this right in practice. The Government allows missionary activity and religious demonstrations by all religions.

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 the 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 May voters elected 121 members to a new Congress; in July President Jamil Mahuad defeated Alvaro Noboa in the second round of the presidential election in a close contest. Noboa disputed Mahuad's election, but an OAS-led observer mission noted that the election had been conducted transparently and that the official results accorded with the observers' private sample of election day ballots.

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

The National Constituent Assembly to reform the Constitution concluded its work in June. The new Constitution took effect on August 10, with changes intended to strengthen the presidency, improve management of the Congress, and ensure increased protection for the rights of women, children, indigenous groups, and minorities.

Traditional elites tend to be self-perpetuating. Consequently, 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 16 of 121 seats in Congress, the largest proportion of seats held by women in the country's history. One Afro-Ecuadorian serves as a member of Congress. There are no other Afro-Ecuadorians serving in senior level government jobs.

The indigenous movement, which previously shunned traditional politics, formed an electoral movement

called Pachakutik (which means "cataclysmic change" in Quichua) and ran candidates for national, provincial, and local office in the 1996 and 1998 elections. A Pachakutik Congresswoman, Nina Pacari, was elected Second Vice President of Congress. The first indigenous member to hold a top leadership rank, Pacari heads an eight-member congressional bloc whose cooperation with the majority in congress on some issues has ensured it significant influence. Indigenous members of the National Constituent Assembly, and their supporters, won important constitutional protections for indigenous rights, which took effect with the new Constitution in August.

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. In September Congress elected a new Ombudsman who, as Attorney General under interim President Alarcon, had earned a reputation as a human rights advocate.

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

The Constitution prohibits discrimination based on race, religion, sex, or social status. In addition, the constitutional reforms explicitly increased the rights of women, children, and minorities, banned discrimination based on sexual preference, and required the new Congress to pass legislation implementing these rights promptly. 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 file complaints against a rapist or an abusive spouse or companion only if they produce a witness. In cases of statutory rape involving "amorous" sex with a minor, if the rapist marries the victim, the charges against him or anyone else who took part in the rape cannot be pursued unless the marriage is subsequently annulled. 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 itself. However, the Women's Bureau doubled the number of its outreach offices and actively referred abuse cases to prosecutors.

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 than men in the professions and skilled trades, and pay discrimination against women is common.

Children

The Government has not taken effective steps to promote the welfare of children. 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 the Government instituted a program to care for the children of the working poor called "Operation Child Rescue." The IACHR concluded that this program reached only a small percentage of those affected. Approximately 45 percent of children under the age of 5 are malnourished. Government spending on education continued to decline, both in real terms and as a proportion of gross domestic product.

Several private organizations are very active in programs to assist street children, and the United Nations 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 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.

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

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. With few exceptions, the indigenous people are at the lowest end of the socioeconomic scale.

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, 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. The National Constituent Assembly defeated an attempt to overturn November 1997 legislation that outlawed public sector strikes that paralyze key services, including schools. Although the labor confederations 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. 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.

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

b. The Right to Organize and Bargain Collectively

The labor market is highly segmented, with a minority of workers in skilled, usually unionized, positions in state-run

enterprises or in medium to large industries. Most of the economically active population is employed in the agricultural sector or the urban informal sector; the vast majority of these workers are not organized. The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests. 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 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. The law prohibits forced or bonded labor by children, and there were no reports of such practices (see Section 6.c.).

e. Acceptable Conditions of Work

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 \$134 (S/803,333). 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 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 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.

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