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1999 Country Reports on Human Rights Practices

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ECUADOR

Ecuador is a constitutional republic with a president and a 123-member unicameral legislature that was chosen in free elections in May 1998. In July 1998, voters elected President Jamil Mahuad to a 5-year term, and he took office in August of that year. A National Constituent Assembly approved extensive constitutional reforms, which also took effect in August 1998. 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 is inefficient and 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 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.

Ecuador suffered an extremely severe economic crisis as the economy contracted by 7.5 percent. 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 inflation rate for the year reached 78 percent, the currency depreciated by 260 percent, and the country defaulted on its international debt; in addition, to prevent a possible collapse of the financial sector, the Government temporarily closed the country's banks and froze all banking deposits. 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 per capita gross domestic product of \$1,101 provides most of the population with a low standard of living. According to a 1999 study, 62.5 percent of citizens live in poverty and 15 percent are indigent, with an almost total lack of resources.

There continued to be serious problems in the Government's human rights record. There were isolated instances of extrajudicial killings. Police tortured and otherwise mistreated prisoners and detainees, and prison conditions remained poor. Persons are subject to arbitrary arrest and prolonged detention is a problem. Once incarcerated, persons may wait years before being convicted or acquitted unless they pay bribes. More than one-half the prisoners in jail have not been sentenced formally. The Government failed to prosecute and punish human rights abusers. The most fundamental human rights abuse stems from shortcomings in the politicized, inefficient, and corrupt legal and judicial system. The Government infringed somewhat on press freedom, and some self-censorship continues. On several occasions throughout the year, the Government declared or extended states of emergency that limit freedom of assembly and movement, and it ordered participants in nationwide strikes back to work. Violence and pervasive discrimination against women, indigenous people, and Afro-Ecuadorians also remain problems. Child labor is a problem. Mob violence and killings persist.

In 1998 the Government decreed an ambitious National Human Rights Plan with the goal of "preventing, eradicating, and sanctioning" human rights violations in the country. The three branches of government, as well as the independent Ombudsman's office and a number of nongovernmental organizations (NGO's) contributed to this plan.

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 confirmed reports of politically motivated killings; however, there continued to be credible reports that police committed extrajudicial killings. Through late September, the Ecumenical Committee for Human Rights (CEDHU) reported a total of 17 extrajudicial killings by the police, security forces, or semiofficial entities such 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.)

On January 10, police in a Guayaquil suburb hit Sergio Michael Zambrano in the face and then shot and killed him as he and his brother tried to intervene in an incident involving a third brother. The police asserted that they had acted in self-defense.

In March Irving O. Pazmino, Luis Echeverria, and Franklin Espinel were killed during a car chase and an exchange of gunfire with police in Guayaquil. Pazmino's family claims that police murdered Pazmino, but government officials' review of the incident cast doubt on these claims. At year's end, the matter was still under review.

In March in Guayaquil, 14-year-old Mickey Mendoza was killed during what appears to have been a tussle with a police officer over a gun. The police said that the killing was accidental. The case was under investigation at year's end.

On July 16, a drunken policeman identified as Carlos Alulema shot and killed cigarette vendor Victor Concha in Guayaquil. The authorities subsequently arrested Alulema, and he awaited trial at year's end.

On November 13, national police officers Alcivar Palma and Jose Palma shot and killed Richard Morales Cabrera in the Cisne-Reten neighborhood of Guayaquil. The police also injured three other persons in the incident. The victims' families said that the police confused innocent victims with robbers and lodged complaints with the authorities. At year's end, the incident was still under investigation.

In 1998 17 inmates died in prison due to traumatic injuries (see Section 1.c.).

In May in the Las Malvinas suburb of Guayaquil, vigilantes killed at least seven suspected criminals. The vigilantes were believed to be under the direction of Jaime Toral, a rightwing political boss, who himself is suspected of being an organized crime leader.

On February 17, unknown assailants killed Jaime Hurtado Gonzalez, an Afro-Ecuadorian member of Congress from the far-left Popular Democratic Movement (MPD) party, Pedro Tapia (Hurtado's alternate in the Congress), and Wellington Borja near the Supreme Court in Quito. The killings bore the hallmarks of a professional "hit," and the authorities brought charges against three police officers and a former police informant in the killing. Several theories were advanced as to the possible motive, but the case remained under investigation at year's end.

There has been no disposition of the November 1998 kidnaping case in Quito of Saul Filormo Canar Pauta, a leader of the Ecuadorian Confederation of United Working Class Organizations. In December 1998, a municipal worker found Canar's body in a trash dump. His hands and feet were tied and his body showed signs of torture. The authorities suspect that he may have been killed by private landowners in retaliation for his activities organizing land invasions by squatters.

In July massive Indian protests erupted in Latacunga against government austerity measures. Security forces opened fire, killing 25-year-old Segundo Aymacana and injuring scores of other persons (see Section 2.b.).

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 16 crime suspects in the first 9 months of the year; individual lynchings continued to occur in all parts of the country, especially in indigenous communities in remote areas of the highlands. For example, in September in La Chimba, northern Pinchincha, a crowd of 300 women reportedly burned to death 15-year-old William Iguamba for stealing property from private residences.

b. Disappearance

There were no reports of politically motivated disappearances.

On December 18, all eight foreign hostages held since September 11 in the northern province of Sucumbios along the border the Colombia were released unharmed. The media had variously speculated that the kidnapers were guerrillas, members of paramilitary groups, Colombians, or common criminals. At year's end, the authorities were still investigating the identities of the kidnapers.

There was no progress in resolving the 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, the police continued to abuse suspects and prisoners, usually with impunity. For example, in May in Guayaquil, the police arrested Billy Navarrete Benavidez, coordinator for the Permanent Committee on Human Rights, severely beat him, and later robbed him in his cell. The incident was under investigation at year's end. Also in May, in the Bastion Popular section of Guayaquil, the police detained three youths (Alfredo Cabullales, Ivan Rivera, and Wilmer Padilla) for no apparent reason. The police took the youths to the police station where they whipped their buttocks with pieces of wood and iron. The youths' parents protested the abuses. 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 at least 14 reports of incidents involving physical mistreatment.

In May in Guayaquil, the police fired upon and wounded Joaquin Hernandez, an editorial writer for the newspaper Hoy, in an apparent case of mistaken identity. The incident was under investigation at year's end.

In July the security forces injured scores of persons at massive Indian protests in Latacunga against government austerity measures. Police in Quito used tear gas in March and July to repel demonstrators protesting higher prices and government plans to cut spending.

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 of prisoners charged with minor offenses who had been held in preventive custody for more than a year. The Constitution that took effect in August 1998 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.

In September the National Directorate for Social Rehabilitation published a report that indicated that there was a total of 8,520 inmates incarcerated in facilities originally designed to hold a population of 5,964. Women represented 9.5 percent of the total. In 1998, 26 inmates died in prison. The report stated that traumatic injuries, reportedly inflicted by fellow inmates, were the cause of death in 65 percent of the cases. It attributed the other deaths to illness and drug use. The prison authorities routinely investigate deaths in custody.

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 in practice. 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 Consuelo 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 Benavides and the Restrepo brothers, for wrongful death, and to the Putumayo 11, a group of rural workers, for illegal arrest, detention, and torture.

The authorities arrested hundreds of persons in Guayas province during a state of emergency that lasted from January 8 until early July. The measure was imposed to stem a soaring crime rate (315 persons had died in violent crimes in Guayaquil by early May). The police often arrested persons on mere suspicion or for lack of proper identification; they released most of them a few days later. The authorities reimposed the state of emergency in Guayas province in December.

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. 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 judiciary is composed of the Supreme Court, superior circuit courts, and other courts and tribunals that hear cases in accordance with the Constitution and other laws, and the new Judicial Council. Military and police tribunals are at the same level as circuit courts, while criminal, provincial, and cantonal courts serve as lower courts, with first-instance jurisdiction.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions, in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. 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 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 1998, 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 of 1998. In November the council's disciplinary committee fired two judges and two court employees for their role in the release of suspected drug traffickers in May. All four are to face criminal charges. The council also sanctioned a judge in Guayas province, Isabel Segarra, for improper conduct in a banking scandal.

The inadequacies of the justice system led to a growing number of cases in which communities took the law into their own hands. There continued to be reports of lynchings and burnings of suspected criminals by outraged citizens (see Section 1.a.). These occurred particularly in indigenous communities and poor neighborhoods of the major cities where there is little police presence. 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 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.

In November Congress passed a new Criminal Procedures Code that was to take effect in 2000. On December 5, President Mahuad partially vetoed the law and proposed changes to the vetoed portions; Congress acquiesced in the changes. The new code is intended to

change the criminal justice system from an inquisitorial to an accusatorial-style system. The Chief Prosecutor's office is to investigate and prosecute crimes, while the role of judges is to change to that of neutral arbiters presiding over oral trials. The new code is a step toward implementation of provisions in the 1998 Constitution intended to strengthen the justice system by improving due process and enhancing the rights of the accused, through measures such as habeas corpus and limits on preventive 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 and 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. Some self-censorship continues.

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. In addition, most elements of the media cannot be independent of economic considerations and tend to reflect the narrow, regional interests of their owners.

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 generally are 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 March and July, protests in various parts of the country were marred by violence; the police injured scores of protesters (see Section 1.c.), several policemen were injured, and property was damaged. In both March and July, President Mahuad decreed 60-day nationwide states of emergency, which limited freedom of assembly. He decreed a state of emergency for Guayas province (primarily to help combat an increase in crime) from January to July and again in December.

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 does not require religious groups to be licensed or registered unless they form NGO's that engage in commercial activity. Approximately 90 percent of the population considers itself to be Roman Catholic, although most citizens either do not practice the religion or follow a syncretistic version that combines indigenous beliefs with orthodox Catholic doctrine. The Government allows missionary activity and religious demonstrations by all religions. The Government does not permit religious instruction in public schools; however, private schools have complete liberty in this regard. In early 1998, police in Pinchincha suspended the meetings of a group known as "Gnostico Cristiano Universal," following the suicide of 29 members of the "Heaven's Gate" cult in California, while they investigated possible links between the 2 groups.

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 requires all citizens to obtain exit visas when traveling abroad, which are granted routinely. Military and minor applicants must comply with special requirements.

The law includes provisions for granting refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. 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 actively have exercised their right to change their national and local governments. In May 1998, voters elected members to a new Congress; in July of that year 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 the Congress, the presidency, or the vice presidency.

The National Constituent Assembly to reform the Constitution concluded its work in June 1998. The new Constitution took effect in August 1998, 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.

Few women, Afro-Ecuadorians, or indigenous people occupy senior positions in government, although no specific laws prevent women or minorities from attaining leadership positions. Women are underrepresented in politics and government, holding 16 of 123 seats in the Congress, the largest proportion of seats held by women in the country's history. There were two female cabinet ministers. No Afro-Ecuadorians serve as members of Congress or 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 the Congress. The first indigenous member to hold a top leadership rank, Pacari heads an eight-member congressional bloc whose cooperation with the majority in the 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 1998.

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 1998, Congress elected a new Ombudsman who, as Attorney General under interim President Alarcon, had earned a reputation as a human rights advocate.

In 1998 the Government decreed an ambitious National Human Rights Plan with the goal of "preventing, eradicating, and sanctioning" human rights violations in the country. The three branches of government, as well as the independent Ombudsmen's office and a number of NGO's contributed to development of this plan. At the end of the year, the

United Nations contributed \$1.2 million to support the plan.

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, 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.

The 1995 Law Against Violence Affecting Women and Children, drafted by a coalition of women's organizations, criminalized spousal abuse for the first time, including physical, sexual, and psychological abuse. It also created family courts and reformed the Penal Code to give courts the power to remove 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.

The Ecuadorian Women's Permanent National Forum, founded in 1994, comprises more than 320 women's organizations and promotes social, economic, and cultural change through various methods, including increasing political participation by women. In addition, the National Women's Council provides support for approximately 500 women's organizations, many of which promote social consciousness and greater participation by women in the political process.

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 U.N. Children's Fund (UNICEF) 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 ensure disabled persons 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 are 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, indigenous people are at the lowest end of the socioeconomic scale. The Confederation of Ecuador's Indian Nationalities (CONAIE) became increasingly militant during the year and mounted major demonstrations in March and July to protest economic austerity measures. Security forces killed one Indian and injured scores of other persons during the massive protests in July (see Sections 1.a and 2.b.). CONAIE is discussing the issue of compensation with the Government, which has agreed to pay some compensation to those injured in the protests.

Religious Minorities

Although relations between religious communities generally have been amicable, there were a few incidents of interreligious or intrareligious tension or violence. In March 1998, in the pilgrimage town of Quinche, near Quito, Catholic residents burned an evangelical temple that was under construction. Catholic Church leaders criticized the act. Subsequently, in April 1999, a mob surrounded an evangelical indigenous church and briefly held 100 church members hostage.

During 1998 there was a series of nonviolent confrontations between groups of Protestants and Catholics in the town of Peguche, in the province of Imbabura. Some citizens claimed that commercial rivalry was at the root of the problem.

In April Southern Baptist workers reported increasing opposition from local residents to the development of a church and a medical clinic in the town of Chachas. The Baptist workers were accused of "starting a new religion." Based on official permission from community leaders to operate the clinic, local police promised to give protection to the Baptist workers.

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 the Labor Ministry approves them. 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.

There were three significant strikes during the year, mainly in response to government austerity measures. They involved public sector employees such as teachers, social security and medical workers, as well as transportation workers; indigenous groups also protested during the strikes. In at least one case (involving health workers), the Government ordered strikers to return to work. Police in Quito used tear gas in March and July to repel demonstrators who sought access to the city center.

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 processing for export) 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, or 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. A 1997 UNICEF report estimated that of the 2.1 million children between the ages of 10 and 17, 37 percent worked. 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 also may adjust it. The statutory minimum wage is not adequate to provide a decent standard of living for a worker and family. As of December, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$55 (1,109,166 sucres). 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 sectors without recourse to the minimum wage or legally mandated benefits.

The Ministry of Labor has the principal role in enforcing labor laws and carries out this responsibility through a corps of labor inspectors who are active in all 22 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.

f. Trafficking in Persons

There is no law that specifically addresses trafficking in persons. The migration law provisions in the Penal Code impose sanctions on suppliers of false documents for purposes of travel or work, and provide for prison sentences for the crime of facilitating illegal immigration for the purpose of prostitution. Other laws dealing with kidnaping, labor, occupational safety, and slavery apply to and provide sanctions for trafficking in persons. There were no reports of persons being trafficked in, to, or from the country. However, police in Spain reported that they had arrested 50 Ecuadorian women working as prostitutes who were likely victims of trafficking.

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