

ECUADOR 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Ecuador is a constitutional multiparty republic with an elected president and unicameral legislature. In April 2009 voters reelected President Rafael Correa and chose members of the National Assembly in elections that were considered generally free and fair. In May 2011 voters approved amendments to the constitution in a process also considered generally free and fair. Security forces reported to civilian authorities.

The main human rights abuses were the use of excessive force by public security forces; restrictions on freedom of speech, press, and association; and corruption by officials. President Correa and his administration continued verbal and legal attacks against the media and used legal mechanisms such as libel laws and administrative regulations to suppress freedom of the press. Corruption was widespread, and questions continued regarding transparency within the judicial sector, despite attempts at procedural reform.

The following human rights problems continued: isolated unlawful killings, poor prison conditions, arbitrary arrest and detention, abuses by security forces, a high number of pretrial detainees, and delays and denial of due process within the judicial system. Limits on freedom of assembly continued, particularly targeting indigenous communities protesting laws affecting their community lands. Societal problems continued, including physical aggression against journalists; violence against women; discrimination against women, indigenous persons, Afro-Ecuadorians, and persons based on their sexual orientation; trafficking in persons and exploitation of minors; and child labor.

The government sometimes took steps to prosecute or punish officials in the security services and elsewhere in government who committed abuses, although political influence and an inefficient judiciary resulted in impunity in some cases.

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings. However, there continued to be credible reports that security forces, particularly police units, used excessive force and committed isolated unlawful killings. Local

nongovernmental organization (NGO) Ecumenical Human Rights Commission (CEDHU) received 26 complaints of unlawful killings by security forces during the year. CEDHU reported that the Office of the Public Prosecutor often hesitated to investigate crimes allegedly committed by security forces, in part because security forces often provided protection to prosecutors.

CEDHU reported that the government only partially addressed recommendations made in 2010 by the UN special rapporteur on extrajudicial executions regarding impunity in cases of killings and abuses by police and hired gunmen, as well as by illegal armed groups and the military in the area bordering Colombia. CEDHU noted that there were insufficient numbers of law enforcement personnel assigned to border communities.

CEDHU and the media reported that on April 7, in northern Guayaquil, eight soldiers who arrived in a military truck arrested Walter Alberto Olmedo Tapia and Julio Alejandro Aviles Buri. Pedro Benjamin Castro Laje attempted to intervene and was also arrested and taken away in the same vehicle, which departed for an unknown destination. The next day their bodies were found with hands tied behind their backs, two of them with gunshots to the head and bruises on their necks. Investigators identified the soldiers and at year's end the eight faced prosecution for murder.

On May 20, police conducting a house raid shot and killed Victor Vicente Vera Vera, in the presence of his five young children. The relatives of the victim complained that police agents did not identify themselves or their purpose.

On November 4, George Michael Murillo was shot and killed while en route to a soccer game in Guayaquil. Initially, police claimed Murillo had been killed by a fan of a rival soccer team, but on November 22, the Office of the Public Prosecutor opened a criminal investigation of three police agents. Relatives of the victim claimed that the police would have never admitted participation in the shooting if videos of the shooting filmed by other fans had not surfaced. The police claimed they feared a riot and decided to disperse the crowd. The case remained in the preliminary stages of investigation.

b. Disappearance

There were no reports of politically motivated disappearances.

In May local media reported the disappearance of a Colombian activist, Carolina Garzon, last seen on April 28. Relatives of the victim asked the government for its assistance in searching for Garzon. The Ministry of Interior offered a reward of \$5,000 to \$20,000 (the U.S. dollar is the official currency) for information regarding her disappearance. At the end of the year, her whereabouts remained unknown.

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

While the constitution and laws prohibit torture and similar forms of intimidation and punishment, some police officers reportedly tortured and abused suspects and prisoners, at times with impunity. In 2010 the Ombudsman's Office acknowledged that "torture is a practice that has taken root."

CEDHU reported that physical aggression and cruel and inhumane treatment in police headquarters continued in 2012. During the year CEDHU registered five cases of alleged torture and 157 victims of "unwarranted physical aggression" by security forces. CEDHU reported that police frequently used excessive force during arrests and that police beat and threatened suspects throughout interrogations to force them to confess to crimes. In a report submitted to the Human Rights Council, the UN Committee Against Torture (CAT) noted with concern the continued occurrence of ill treatment during police detention.

In December 2011 the CAT condemned the 2010 killing of Dr. German Antonio Ramirez Herrera, a forensic expert specializing in the investigation of cases of torture and summary executions. According to reports, Ramirez Herrera received threats after documenting cases of torture and mistreatment in the Quevedo Social Rehabilitation Centre.

The law and the constitution recognize indigenous communities' right to exercise their own systems of justice based on their traditions and customs. However, there were concerns that certain indigenous punishments, such as floggings or cold baths, violated human rights.

Prison and Detention Center Conditions

Conditions in prisons and detention centers generally were poor and tended to be worse in the tropical coastal areas than in the temperate highlands.

Physical Conditions: Overcrowding continued to be a problem in most prison facilities. CEDHU reported that prisons held an average of 60 percent more inmates than capacity. In December a Ministry of Justice report indicated the total prison system was overcrowded by 40 percent, with some facilities operating at well over 200 percent capacity. Foreign observers noted that many of the prisons faced a high risk of fire, largely due to overcrowding.

As of December, the Ministry of Justice reported that 50 facilities held 21,080 prisoners, compared with 16,587 the previous year. Authorities held pretrial detainees with convicted prisoners. The government reported that there were 649 juvenile prisoners and 1,893 female prisoners.

A number of prisons experienced serious outbreaks of disease, and medical care was often inadequate. Chronic overcrowding and lack of preventive health-care measures permitted disease to spread quickly. The health care provided was minimal and sufficient only for emergencies. Prisoners reported that medicines often were not available and that they had no access to dental care. Many prisoners reported problems with asthma due to dust and pollution and said that they had no access to inhalers. The Ministry of Justice reported that 41 prisoners died during the year, compared with 21 deaths in 2011.

According to a 2011 report by the international NGO Prisoners Abroad, resources in the prisons were minimal, and authorities expected prisoners or their families to provide almost all mattresses, clothing, and medicines. Prisons provided three basic meals a day, but prisoners reported that the quality of food was poor. Prisoners often supplemented these rations by buying their own food. Prisoners had access to potable water.

While physical conditions were notably better in the Quito women's prison than in men's facilities, according to the CEDHU and reports from prisoners, male guards were responsible for guarding female inmates, and female inmates reported that male guards requested sexual favors in return for assistance. Former prisoners reported that prison officials and internal "mafias" ran prostitution rings out of some of the women's prisons, gaining participation from the female prisoners in exchange for preferential treatment. Detention centers provided day-care facilities for children younger than three years who could not be separated from their mothers.

Administration: Prisoners reported often having to pay bribes to guards, officials, and other prisoners in order to improve the quality or quantity of their food, to

have access to the prison medical clinic, or to change or improve the location in which they were held. Upon completing sentences, most prisoners remained incarcerated for an additional three to five months due to bureaucratic inefficiencies, lack of record keeping on the length of their sentence or incarceration, and corruption. Local NGO Confraternidad Carcelaria reported that, in extreme cases, prisoners had remained in prison up to and exceeding a year past their sentences.

There were no improvements in recordkeeping during the year. Most prisons continued to rely on paper files and lacked access to computers and the Internet. Prisoners convicted of nonviolent crimes could have their sentences reduced by up to 50 percent by earning points for work, education, and good behavior. It was extremely difficult to obtain a firm release date from prison authorities, and the onus was often on inmates to schedule their own review boards.

Prisoners reported reluctance to raise complaints to members of the prison staff due to fear of reprisal or belief that their requests would go unanswered. Authorities reportedly did not investigate allegations of inhumane conditions. CEDHU reported 34 cases of violations of the rights of prisoners and detainees during the year. There were no prison ombudsmen. Prisoners had the right to appeal to local and national human rights ombudsmen, although in practice limited resources often hampered the entities' effectiveness. Prisoners were free to practice a religion, although officials did not always allow religious representatives to visit prisoners.

Monitoring: Although in most instances the government permitted prison visits by independent human rights observers, authorities occasionally did not permit observers to visit prisoners, especially during times of internal disturbance. Prison officials stated that all properly identified officials and representatives from NGOs were able to visit prisoners, yet observers and authorities frequently were unable to find prisoners because of poor recordkeeping and corruption of prison officials. Prisoners were able to express their concerns and complaints to local organizations, which played an important role in voicing problems to the human rights ombudsmen. According to a warden of one of the major prisons, prison visits are limited to two hours with one conjugal visit per week per prisoner.

Improvements: According to Ministry of Justice reports, the 2012 budget included approximately \$17 million to build six new facilities and renovate or expand 10 existing structures. As of September, contractors had constructed one new facility and completed renovations on three others. Additionally, four more buildings were

under construction, and nine of the renovation projects were underway. Foreign observers noted that prison management improved.

d. Arbitrary Arrest or Detention

While the constitution prohibits arbitrary arrest and detention, the law and some regulations adopted by central or provincial authorities undermine the guarantees offered.

Role of the Police and Security Apparatus

The National Police are responsible in law and practice for internal security and law enforcement and are under the authority of the Ministry of Interior. Corruption; poor hiring procedures; and insufficient training, supervision, and resources impaired National Police effectiveness. Police abuse persisted despite government efforts to control it. In some cases, instead of initiating an investigation against officers suspected of corruption, police authorities transferred them to other police units and prevented further administrative and judicial action. In other cases, the police continued to block criminal investigations. In January Human Rights Watch reported that “impunity for police abuses, including extrajudicial executions, is widespread.” A police internal affairs office investigates complaints against police officers and can refer cases to the courts. On May 25, the UN Office of the High Commissioner for Human Rights (OHCHR) recommended that the government take proper steps and measures in ensuring prompt, impartial, and timely investigation of all police abuses to bring perpetrators to justice, put an end to impunity, ensure the independence of the judiciary, and fight against corruption. Civilian authorities maintained effective control over the police and armed forces.

On April 26, former defense minister Miguel Carvajal announced a plan to train some 4,000 military personnel to combat rising insecurity in the country. The announcement came just days after President Rafael Correa described the battle against organized crime as a priority for the military, saying, “there cannot be a successful fight against crime without the participation of the armed forces.” The military worked to combat organized crime, including drug and arms trafficking. Because of the critical crime situation, the president delegated some internal security duties to the armed forces in 2011.

Police receive required human rights instruction in basic training and in training academies for specialized units. In the police academy, human rights training is

integrated throughout a cadet's four-year formation. Additionally, there is a mandatory human rights training regimen (Preservation of Life and Human Rights) that began in 2010, along with a new human rights handbook. Human rights groups contributed to the development of the course and were sometimes asked to participate in course modules. Authorities offered other human rights trainings intermittently. The government continued to improve the preparedness of police, including increasing funding, salaries, and purchasing equipment.

When mob violence took place, police sometimes failed to intervene or respond in a timely fashion (see section 6, Societal Violence).

Investigations into the September 2010 police protest continued. On June 7, the government closed the investigation against the former director of the Police Hospital in Quito, Cesar Carrion, and ordered the National Police to reinstate him in the police force.

Arrest Procedures and Treatment While in Detention

The law requires authorities to issue specific written arrest orders prior to detention, and a judge must charge a suspect with a specific criminal offense within 24 hours of arrest. Authorities generally observed this time limit, although in some provinces immediate detention was often considerably longer. Detainees have the right to be informed of the charges against them. If the initial investigation report is detrimental, the judge, upon the prosecutor's request, may order pretrial detention.

Detained persons may challenge the legality of their detention through a habeas corpus petition submitted to any judge in the locality where the detention took place, and there is no time limit within which a habeas corpus petition must be filed. The detainee may also request bail or other alternatives to pretrial detention. Such alternatives (for example, house arrest or probation) are allowed only in the case of crimes punishable with prison terms of less than five years.

Authorities charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges.

Detainees have a constitutional right to an attorney or to request a court-appointed one. The autonomous Public Defense Office provided legal services to defendants.

Although the law prohibits incommunicado detention, human rights organizations continued to report occasional violations. The law entitles detainees prompt access to lawyers and family members, but there were delays depending on the circumstances and officials' willingness to enforce the law. Alleged narcotics traffickers commonly waited 24 to 48 hours for these visits. Detainees with sufficient resources bribed prison officials to facilitate access. CEDHU reported that Antinarcotics Police and Judicial Police facilities holding persons for preliminary investigation often did not allow visits by family or counsel.

Arbitrary Arrest: CEDHU reported five cases of arbitrary arrest involving 20 persons. Most victims chose not to pursue legal cases due to fear of reprisal, lack of resources, or little hope for a fair trial due to judicial and police corruption.

On March 3, seven men and three women met in a house located in the southern part of Quito, known as "Luluncoto." Local media reported that police agents interrupted the meeting and arrested all 10 participants without a court order or search warrant, although the Prosecutor's Office claimed authorities had issued the warrants prior to the arrest. Human rights organizations reported that the detainees did not receive an explanation why they were taken into custody. The detainees accused the police of introducing false evidence in their belongings and abusing them physically. Defense attorneys and relatives of the detainees reported to media and human rights organizations that authorities moved the detainees from their detention cells to an arraignment hearing the next day without properly informing their attorneys. Authorities charged the "Luluncoto Ten" with sabotage and terrorism. Members of the group publicly asserted they had never heard of the terrorist group in question and were meeting to discuss politics. Authorities released the seven male detainees from prison on December 19 on a habeas corpus petition, although two female detainees remained in prison. The third female accused, who was pregnant at the time of the raid, was serving house arrest to care for her newborn child. At year's end the "Luluncoto Ten" were still awaiting trial.

Pretrial Detention: The government estimated that 37 percent of prisoners had not been sentenced. CEDHU reported that the vast majority of individuals in rehabilitation centers throughout the country continued to be detained without sentencing. Trial delays were caused by lengthy and complicated judicial procedures; corruption and poor training of the police, prosecutors, public defenders, and judges; and general judicial inefficiency. Many cases were

abandoned because the victims did not pursue a sentence, in part because of the cost of retaining counsel and bribing judicial authorities.

Amnesty International reported as of August that some indigenous leaders who participated in peaceful protests concerning the passage of laws remained in detention without trial and final sentencing (see section 2.b.).

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, in practice the judiciary was susceptible to outside pressure and corruption. The media reported on the susceptibility of the judiciary to bribes for favorable decisions and faster resolution of legal cases. Judges occasionally reached decisions based on media influence or political and economic pressures. Delays often occurred in cases brought against the government, whereas cases brought by the government moved quickly through the courts.

In some cases the outcome of trials appeared predetermined. In July the Guayas attorney general dismissed a complaint by the defendants against the presiding judge in a 2011 private libel suit brought by President Correa against the newspaper *El Universo* (see section 2.a.). In that case the presiding judge had published a 156-page decision 25 hours after the hearing, whereas in similar cases such decisions usually took at least two weeks (and often significantly longer) to produce.

Trial Procedures

Defendants are presumed innocent until convicted in a trial. There are no juries in the justice system. Defendants have the right to be informed promptly and in detail of the charges, including free interpretation when necessary, although there were confirmed reports of foreigners tried and convicted without access to a translator. All citizens have the right to a public trial, although delays occurred frequently. The accused have the right to consult with an attorney or to have one provided, and to appeal. Defendants may present evidence and call witnesses, invoke the privilege against self-incrimination, and confront and cross-examine witnesses. Defendants have the right to adequate time and facilities to prepare defense, although in practice delays in providing translation services made this difficult for some foreigners. Defendants have the right to access evidence held by the police or public prosecutor. However, in practice this right was inconsistently exercised

because many defendants lacked knowledge of the right, preparation, or legal representation. Authorities generally failed to inform defendants of this right.

Despite efforts to modernize the court system, the judiciary continued to operate slowly and inconsistently. There were lengthy delays before most cases came to trial. Judges reportedly rendered decisions more quickly or more slowly due to political pressure or, in some cases, the payment of bribes. The failures of the justice system contributed to cases in which communities took the law into their own hands, including mob violence against suspected criminals.

The regular court system tried most defendants, although some indigenous groups tried members independently for violations of tribal law. While the law and the constitution recognize indigenous communities' right to exercise their own systems of justice based on their traditions and customs, they do not specify how this right should be implemented. This parallel system raised questions of both jurisdiction and conformity with the right to a fair trial, as well as the possibility of inconsistent results between systems.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Civilian courts and the Administrative Conflicts Tribunal, generally considered independent and impartial, handle lawsuits seeking damages for, or cessation of, human rights violations. However, civilian lawsuits seeking damages for alleged wrongs by the state were rarely filed, since such suits were time consuming and difficult to prosecute, with judges taking up to a decade to rule on the merits.

In July the Inter-American Court of Human Rights ruled in favor of the Sarayaku indigenous group in their case against the government for allowing oil exploration on Sarayaku community lands prior to 2003. The ruling requested payment of \$1.39 million in damages to Sarayaku representatives and a formal apology. The government announced it would comply but reserved its right of recourse against a prior administration.

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

The constitution and the law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and press, but the government restricted these rights in practice.

Freedom of Speech: President Correa and his government continued verbal and legal attacks against the press during the year. The president regularly stated that the press was his “biggest enemy.” While he dropped the private libel lawsuits and criminal charges against journalists in February, several NGOs and international human rights organizations expressed concerns regarding criminalizing speech and the chilling effect that the lawsuits had on many journalists. During his weekly television and radio address, the president continued to encourage government officials and private individuals to bring cases against the media, which led to increased media self-censorship.

Generally, individuals could criticize the government publicly or privately without reprisal. However, it is illegal to threaten or insult the president or executive branch, and penalties for violators are six months’ to two years’ imprisonment or a fine of \$16 to \$77.

Freedom of Press: The independent media generally remained active and expressed a wide variety of views, including those critical of the government. The government owned or operated at least 21 media stations and one newspaper and used its extensive advertising budget to influence public debate. The law mandates the broadcast of messages and reports by the president and his cabinet free of charge. The government regularly required media stations to broadcast statements by the president and other leaders, and this reduced the stations’ paid programming. The Special Rapporteur’s Office of the Inter-American Commission on Human Rights expressed concern that the excessive frequency of such mechanisms prevented media outlets from choosing what information to disseminate as part of their exercise of free speech. The Special Rapporteur’s Office stated, “If these broadcasts are issued too frequently, the consequence will be that the non-official media will be transmitting the State’s official message permanently, to the detriment of their own editorial line.”

Laws that went into effect in 2011 limited the ownership of media companies. New provisions in the Democracy Code passed during the year placed limits on the ability of the media to provide election coverage during the official campaign period. Civil society organizations challenged these provisions in the Constitutional Court, but the court upheld almost all of the law, although it did affirm the right of the press to conduct interviews and file special reports on candidates and issues during the campaign period. The ruling left in place restrictions on “direct or indirect” promotion of candidates or specific political views.

Violence and Harassment: President Correa frequently used mandated broadcasts and his public appearances to make personal attacks on specific journalists, as well as to criticize the media, question its competence and professionalism, and accuse it of bias. In July the Latin American and Caribbean Network for Democracy (Redlad) asserted that “the Ecuadorian government has persisted in the systematic persecution of civil society organizations, journalists, and media. Freedom of press, association, assembly, and expression are being notoriously threatened in Ecuador.”

Press freedom NGO Fundamedios reported 173 cases of harassment (threats, verbal and physical attacks, or arrests) against journalists or other representatives of the press during the year.

On July 1, unknown assailants shot and killed independent journalist Byron Bolivar Baldeon Solorzano in Guayas Province. Baldeon had been investigating a robbery in which three police officers were among the accused and had offered to serve as a prosecution witness.

On September 19, well-known reporter Janeth Hinostroza announced her withdrawal from her morning news program after receiving anonymous threats for investigating a corruption case in which the cousin of the president, Central Bank Director Pedro Delgado, was allegedly involved. The government offered to provide Hinostroza security personnel for protection, which she refused. After condemning the threats against Hinostroza, President Correa labeled her “an extremely bad journalist” and blamed the climate of violence in the country on the lies spread by the media, which he described as “ink criminals.”

On August 16, Orlando Gomez Leon, editor of *La Hora* newspaper, received threats via a series of early morning phone calls. Two men on a motorcycle later assaulted Gomez; one of them shouted his name and smashed a mirror on his car

with a pipe. Just prior to the threats and assault, Gomez had written articles about the status of freedom of expression in the country.

Censorship or Content Restrictions: The relationship between the press and the government was poor. Journalists working at private media companies reported instances of indirect censorship and stated that President Correa's attacks caused them to practice self-censorship. In June President Correa ordered government ministers to stop granting interviews with private media, stating that private media only served the interests of big business. Civil society leaders filed an action of protection in the court system, protesting the unconstitutionality of the ban. On September 24, Judge Raul Reinoso ruled that the prohibition issued by Correa was "not a public policy but just part of the presidential rhetoric" and concluded that the ban did not violate constitutional rights.

Private media companies reported that the government continued to use tax and labor inspections to harass companies that published reports critical of the government. These investigations forced the companies to undertake time-consuming and costly legal defense. The government also used these regulations to close several media outlets.

On July 6, the Superintendency of Telecommunications shut down Radio Morena, owned by the family of an opposition politician, for nonpayment of frequency licensing fees and a failure to operate according to their concession. Morena's owners denounced the closure as politically driven and publicly disclosed their fee-payment receipts.

On July 31, Ministry of Labor officials seized computers and other equipment at the office of the popular *Vanguardia* magazine, alleging violation of laws requiring a minimum number of employees with disabilities. *Vanguardia* representatives asserted that the closure was politically motivated and claimed that it followed a series of articles they published regarding public corruption. On August 30, *Vanguardia* representatives filed a lawsuit against President Correa for moral damage based on a comment the president made on his Saturday national television and radio address broadcast on August 4. The president stated "*Vanguardia* does not pay their workers and violates labor laws."

The government remained the largest single advertiser in the country and used advertising contracts to reward or punish media companies. On July 28, President Correa announced that the government would no longer advertise in private media.

The president also used his Twitter account to encourage his supporters to avoid purchasing private media products, as they were “corrupt.”

Journalists claimed that the broadcast frequency renewal process became a subjective political evaluation of the station rather than a technical review.

Libel Laws/National Security: The government increasingly used legal mechanisms, including libel laws, against media companies, journalists, and private individuals. Fundamedios reported 33 lawsuits against journalists or media companies since 2008, seven of which were filed during the year. Libel is a criminal offense under the law with penalties of up to three years in prison, fines, and damages.

The law includes criminal libel charges, which may be used to criminalize opinion. The reach of the law, however, including whether it applies to opinion articles and whether media owners are liable for statements made by reporters or others using their media platforms, remained unclear.

On February 27, President Correa pardoned the four defendants in the *El Universo* case and the authors of the book *Big Brother* after national and international outcry over the court rulings in both cases. In 2011 courts had imposed jail terms and multi-million dollar fines in both cases (\$40 million in the case of *El Universo*) for libel and defamation of the president, respectively. When issuing the pardon, the president pointedly noted he would “pardon, but not forget.”

On November 8, the government filed an action of protection against *La Hora* newspaper, disputing the use of government spending estimates released by a local NGO cited in an October 10 article. The judge ruled in favor of the government on November 12 and required *La Hora* to publish an apology and a rectification using spending figures provided by the government.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. However, on July 11, the government passed a new telecommunications regulation, requiring that Internet service providers fulfill all information requests from the superintendent of telecommunications, allowing access to client addresses and information without a judicial order. NGOs expressed concern that this new regulation violates principles of privacy and could be used by the government to

track online activity of private citizens. The International Telecommunication Union reported that 31 percent of the public used the Internet in 2011.

While individuals and groups could generally engage in the expression of views via the Internet, including by e-mail, the government increasingly monitored Twitter accounts for threats or insults against the president. On August 22, a few hours after a Twitter user denounced President Correa in harsh terms, the president on his own Twitter account requested intelligence authorities to investigate and take judicial action, and the user quickly shut down the account.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of peaceful assembly. The government generally respected this right in practice, although some exceptions occurred. Public rallies required prior government permits that were usually granted. The government often deployed a large security presence at demonstrations. Security forces generally respected the rights of participants, but some exceptions occurred.

The government increasingly filed legal charges or opened investigations against protesters who blocked roads or impeded public services, citing demonstrators for “terrorism and sabotage” or similar charges that effectively criminalized protest. CEDHU reported that during the year, authorities charged 15 persons with sabotage and accused 10 others of terrorism. In December the Corporation Research Center of Communication of Ecuador released a report that stated approximately 47 indigenous leaders, trade union representatives, and students faced legal proceedings on charges of committing acts of sabotage and terrorism. The report explained that many of these legal processes began in 2010 and most remained frozen in the preliminary investigation stage. Indigenous groups estimated that authorities have charged more than 200 of their members with terrorism or sabotage. A July Amnesty International report stated that eight of 24 indigenous and community leaders arrested on charges stemming from social protests in 2009 and 2010 remained under investigation, involved in court proceedings, or under bail restrictions. According to the report, Amnesty

International documented other cases, but did not include them, as the leaders feared reprisals.

On August 14, a judge denied the appeal of indigenous leaders Carlos Perez, Federico Guzman, and Efren Arpi, whom a lower court had sentenced in August 2011 to eight days in jail for illegally obstructing roads and interrupting public services during a 2010 protest.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice. During the year the government continued mandatory reregistration of domestic organizations and announced it would not renew operating permissions for 26 international NGOs (see section 5). The law provides the government discretion to dissolve organizations (including civil society, foundations, and churches) on multiple grounds, including compromising the interests of the state, not posting the names of all of their members on a public Web site, or not providing access to information requested by the government. In March the government moved to shut down local environmental NGO Accion Ecologica, claiming that the organization was not operating within its charter. After local and international protests, the government shifted its position and stated that Accion Ecologica needed to reregister with the Ministry of Environment. At year-end the organization was operational but had yet to meet the requirements for reauthorization. NGOs also reported harassment with tax and labor inspections.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection

and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other vulnerable persons of concern.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The UNHCR reported that as of September 30, there were 55,640 recognized refugees in the country, 98 percent of whom were Colombian. The law establishes a two-step procedure for asylum seekers in applying for refugee status with a right to appeal rejections.

In part due to political backlash, in May the government significantly tightened the asylum process by removing “generalized violence” as a basis for asylum, limiting applications for asylum to people who had entered the country within the previous 15 days, and by adding an eligibility interview. The UNHCR estimated that after the new procedures were instituted, approximately 30 to 40 percent of applicants were denied entry to the refugee process by the eligibility interview and up to 80 percent of the remaining refugee applicants were denied refugee status by a refugee determination panel. Previously, the government permitted 80 to 90 percent of asylum seekers to obtain refugee status.

In practice the registration process often took six months to a year, and occasionally more than a year. During the application process, an applicant receives an asylum seeker card, renewable every three months, that grants the applicant the right to work until refugee status is adjudicated and all appeals are exhausted. A grant of refugee status is valid for two years and then must be renewed.

Refoulement: The UNHCR did not provide information on refoulement of recognized refugees or asylum seekers during the year.

Refugee Abuse: Urban refugees were vulnerable to crime, violence, and discrimination. Refugees reported discrimination in employment and housing. Societal stereotypes and media reports often portrayed refugees as criminals and prostitutes, which affected refugees’ ability to assimilate into the local population.

Access to Basic Services: The law provides recognized refugees and asylum seekers the same access to public health services as citizens. The presentation of any identity document is sufficient to provide access to public educational

institutions. However, NGOs asserted that some local school authorities prohibited noncitizen children from enrolling in school. Some NGOs also reported that the Civil Registry did not always cooperate in registering refugee children or registering children of refugees born in the country, despite legal requirements to do so.

Durable Solutions: Few refugees were able to naturalize as citizens or gain permanent resident status due to the expensive and lengthy legal process required. The number of Colombian refugees voluntarily repatriated to Colombia was minimal. The main durable solution remained local integration, even though there were many obstacles to achieve sustainable local integration. During the year the UNHCR presented 1,612 persons for resettlement to a third country; between 60 and 70 percent of these persons travelled.

Temporary Protection: The government also provided temporary protection to individuals who may not qualify as refugees. The government and NGOs provided humanitarian aid and additional services, such as legal, health, education, and psychological assistance, to Colombians recorded as having crossed the border during the year. Most government assistance ended after denial of official refugee status.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In May 2011 citizens voted in a national referendum on constitutional changes, including reform of the judiciary and ownership and regulation of financial and media institutions, as well as regulatory changes on gambling, animal cruelty, and social security. A small team of observers from the Organization of American States (OAS) considered the referendum free and fair, but there were delays and inconsistencies in the vote-counting process. Local observers expressed concern over violations of campaign spending rules.

In 2009 the government held elections for offices at all levels of government, including the presidency and the multiparty National Assembly. OAS and EU

observers concluded that the elections were generally free and fair, with local irregularities. Although the international and domestic observation teams reported no major fraud, there were some reports of missing or marked ballots, counting and vote-calculation irregularities, and incidents of violence.

Political Parties: In accordance with electoral laws, political parties are required to register with the National Electoral Council (CNE). In order to receive authorization to participate in the 2013 elections, parties and movements needed to show the support of at least 1.5 percent of the 2009 electoral rolls (157,947 individuals) by collecting voter signatures. A new regulation limited voters to registering with only one political group.

A party-registration scandal and problems with the registration process within the CNE delayed party registration for several weeks, limiting the ability of parties to organize and hold primaries. The CNE did not authorize several national parties to participate in the 2013 elections due to irregularities with the signatures submitted for their registration. The scandal also delayed other important CNE decisions, such as a new districting plan for the three largest provinces. Opposition parties and civil society organizations criticized the registration review process and districting plan and complained that the CNE did not operate with appropriate transparency.

Participation of Women and Minorities: The constitution provides for state-promoted, gender-balanced representation in the public sector, including in the lists of political parties' candidates for the National Assembly and other representative institutions. The electoral law mandates that electoral lists be gender-balanced and structured in an alternating male-female (or vice versa) pattern, both for primary and stand-in candidates.

There were 42 women in the 124-seat National Assembly, 10 women in the 28-member cabinet, and three female secretaries of state with the rank of minister. There were five indigenous persons and one Afro-Ecuadorian in the National Assembly. There were no Afro-Ecuadorians, Asian-Ecuadorians, or indigenous persons in the cabinet.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption. However, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity.

The government recognized extensive corruption in the judicial branch and began a process to reform the judiciary that continued throughout the year. The reform process improved somewhat the judiciary's ability to deliver services to the public through infrastructure and technology, to remove corrupt or ineffective judges, and to reduce the case backlog. Independent observers noted, however, that the judges on the higher courts appeared more closely aligned with the current administration, and some questioned the independence of those courts. Some academics and think tank analysts said that legal cases were not processed unless the police and judicial officials were bribed. There were media reports alleging police corruption and extensive corruption in public contracts and procurement. An October poll published by local firm Quantum revealed that 81 percent of those surveyed believed that corruption in the country was "serious" or "very serious" and that 26 percent claimed they had paid some form of bribe or "tip" to a public official in the last 12 months. A study by the Latin American Public Opinion Project showed that 41 percent of citizens surveyed indicated they paid a bribe in the past year.

Labor leaders and business owners reported corruption among labor inspectors (see section 7.d.).

On May 26, the Ministry of Environment announced that employees had illegally transferred seven million dollars to personal accounts. The government argued that the system's internal controls allowed the detection of the fraudulent transactions. At year's end five ministry employees and 10 private citizens had been arrested in connection with the case.

The National Secretariat for Management Transparency (NSMT), which is part of the Executive Branch, is tasked with investigating and reporting public complaints of corruption and with promoting transparent practices in the public administration. The NSMT and the Fight Against Corruption, part of the NSMT, are also responsible for investigating cases of corruption.

Government officials are required to declare their financial holdings upon taking office and if requested in an investigation, and all agencies must disclose salary information annually. The constitution requires civil servants to present a sworn statement regarding their net worth at the beginning and end of their term of office, including their assets and liabilities, as well as an authorization to lift the confidentiality of their bank accounts. The Office of the Comptroller has the responsibility to monitor and verify disclosures, examine the statements, and investigate those cases where illicit enrichment is alleged. The statements of

disclosures can be made available to the public by request of an interested party. All declarations are filed in the offices of public notaries and are entered as a public deed. The comptroller general's Web site contains a section in which the public can run a search on officials to see if they complied with the income and asset disclosure requirement. There are no criminal and/or administrative sanctions for noncompliance, only the inability to assume office. However, the Comptroller General's Office can report any unusual actions or activities to other government officials, who in turn could initiate their own investigations. Public officials are not required to submit periodic reports, even when changes occur in their holdings.

On August 9, the comptroller general opened a special investigation regarding the disclosure of assets made by former Central Bank President Pedro Delgado, cousin of President Correa. The investigation was to verify Delgado's compliance with the disclosure requirements and to determine if variations existed between his declared and actual holdings. The comptroller general had two months to study the documentation provided by Delgado, and as of October 31, there had not been any reports regarding their findings. On December 19, Delgado stepped down and left the country after admitting that he falsified his academic credentials.

The constitution and other regulations provide for the right of public access to government information. In practice, however, authorities did not effectively implement the law. The law requires all organizations (public and private) that receive public funds to respond to written requests for information, publish specific information on their Web site, and submit an annual report to the Ombudsman's Office that details their compliance with the transparency law. Because of this legislation, government agencies increasingly included budget information, functions, organizational information, lists of government officers, and official notices on the Internet in addition to responding to written requests. Nevertheless, in practice requests for information were not always granted, and the government made exceptions, stating that the requested information was not available. Judges did not enforce the legislation requiring the government to release information.

The law is clear on the exceptions for nondisclosure of information, including private information on an individual's personal accounts. According to the law on transparency, representatives of a public entity must respond to requests within 10 days, a period that may be extended for five additional days. Requests for government information are free of charge. Public officials who refuse to comply with requests without legal justification may be sanctioned with a penalty equivalent of one month's salary, suspension from office for a term of 30 calendar

days without pay or remuneration, and removal from office in the event of a continued refusal to deliver requested information. The law provides an appeal mechanism, both administrative and judicial, to review disclosure denials. There were no reports of public outreach activities or public official training to encourage effective implementation of these policies.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials regularly cooperated with the groups but often did not act on their recommendations.

In 2011 the government began a process to standardize requirements for international NGOs to register and operate in the country. International NGOs were required to reregister with the government under the new regulations. NGOs reported that the reregistration process is difficult and includes the cumbersome requirement of obtaining a letter of “no objection” from a cabinet ministry relevant to the NGO’s work. In July the Technical Secretariat of International Cooperation (SETECI) issued new compliance standards for NGOs, which included prohibitions on political interference and granted the government greater control over NGO finances. On September 4, SETECI announced that 26 international NGOs would not have their permissions to operate renewed, either due to inactivity in the country or failure to complete the registration process.

The government used public statements to criticize and attack the credibility of specific international and local NGOs, as well as NGO findings. On October 27, President Correa accused the National Endowment for Democracy of indoctrinating indigenous communities; he also labeled it as one of the international NGOs trying to destabilize his administration. On December 10, the government interrupted television programming to reject an Amnesty International report that claimed the government had criminalized social protest. President Correa has stated that some NGOs undermine national security and during the year labeled several local NGOs with international ties as spies for foreign embassies and enemies of the state.

Government Human Rights Bodies: The Ombudsman’s Office, which the constitution describes as an administratively and financially independent body under the Transparency and Social Control Branch of government, focused on

human rights problems. As of September the office had 144 lawyers and regularly presented cases to the Prosecutor's Office. The public perceived the Ombudsman's Office as independent. The office's effectiveness has improved, but lack of resources continued to be a problem. In 2012 the budget of the Ombudsman's Office increased by approximately two million dollars. During the year the Ombudsman's Office assumed new responsibilities, including the monitoring of the rights of persons with disabilities, and reorganized to support decentralization of its services throughout the country.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status. However, the government did not fully enforce these prohibitions. Women; persons with disabilities; indigenous persons; Afro-Ecuadorians; and lesbian, gay, bisexual, and transgender (LGBT) persons continued to face discrimination.

Women

Rape and Domestic Violence: Although the law prohibits violence against women, including within marriage, abuses were widespread. The law criminalizes rape and provides penalties of up to 12 years in prison. Under family law, spousal rape is considered a type of violence, and it may be prosecuted under the criminal code. The penalty for rape where death occurred is from 12 to 16 years' imprisonment. The National Police received 2,067 reports of rape during the year and detained 789 individuals.

Individuals did not report many instances of rape and sexual assault because of the victim's fear of retribution from the perpetrator or further violence and social stigma. According to local media reports, reporting rapes and other forms of violence continued to be a traumatic process, particularly for female minors. For example, when rape occurs the victim must file a complaint at the Office of the Public Prosecutor, and the victim has to go through several gynecological evaluations, including the Helsinki test. According to NGO Asylum Access, revictimization occurs when women are required to appear in court and repeat in detail the aggression they suffered; in certain cases officials mistreated victims and obliged them to deal with unnecessary bureaucratic hurdles. In addition victims were sometimes accused of being responsible for the aggression. Due to lack of resources, judicial police also request or delegate to the victims the collection of evidence. According to a 2011 study done by the Spanish Agency for International

Cooperation for Development, women remained in the midst of silence and impunity, and the inefficiencies in the judicial system explained “the lack of trust that women have in governmental institutions and their capacity of preventing, investigating, and punishing cases of domestic violence.”

The most pervasive violence against women involved domestic and sexual violence. Ana Lucia Herrera, president of the Transitional Commission towards the Council of Women and Gender Equity, maintained that officials and judges blamed rape victims. According to a 2011 national survey of 18,880 women conducted by the Ecuadorian Institute on Statistics and Surveys (INEC), 61 percent of women reported being victims of abuse. Byron Villacis, national director of INEC, added, “many women do not recognize violence.” INEC also reported that psychological aggression is the most common form of abuse nationwide, is the least reported, and carries fewer sanctions than physical aggression. According to INEC’s survey, gender-based violence affected indigenous women more than any other group: 68 percent of women who identify themselves as indigenous reported that they had been victims of some form of domestic violence.

The National Police’s Department of Domestic Violence (Devif) reported receiving 4,967 cases of family aggression. The public prosecutor recorded 1,991 injuries during the year due to family violence. The chief of Devif, Maite Guerra Fuentes, reported that most of these aggressions were against women and that physical violence prevailed over sexual violence. Perpetrators were often the spouse, brother, father, or any other relative acting as the head of the family. On May 28, psychologist Aurora Macias reported that 90 percent of women suffered psychological violence. Additionally, 50 percent of female victims of family aggression did not report the crime.

Legal, social, and medical assistance and police protection were provided free of charge to victims of domestic and gender violence through 36 governmental joint service centers. The Ministry of Interior’s Office of Gender reported that the service centers received 72,971 reports and complaints during the year. According to family law, domestic violence may be punished with a fine for “damages, pain, and suffering” ranging from \$264 to \$3,960, depending on the severity of the crime. The law also gives family courts the power to remove an abusive spouse from the home if continued cohabitation creates a risk to the victim of abuse.

Sexual Harassment: Despite the legal prohibition of sexual harassment, women’s rights organizations described harassment in the workplace as common. During the year the national police received 505 reports and complaints of sexual

harassment. Different studies conducted by the Ministry of Interior and Ministry for Economic and Social Inclusion revealed that preteen females were targeted and victimized more than any other age group, particularly in schools and public places. There were no reports of police or judicial reluctance to act on harassment complaints. In addition, the municipal government of the Metropolitan District of Quito implemented a zero-tolerance program against sexual violence, including sexual harassment, on public transportation and public spaces.

Reproductive Rights: The law acknowledges the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. The law protects the sexual and reproductive rights of women and calls for free prenatal care, family planning services, and cancer screening.

Planned Parenthood Global reported that during the year 195,503 women had skilled attendants during childbirth, whereas 23,659 women gave birth without medical assistance. According to a Kaiser Family Foundation study, between 2005 and 2011, 89 percent of women had skilled attendants during childbirth. However, the Ministry of Public Health stated that approximately 62 percent of births to self-identified indigenous mothers took place at home without professional attendants in 2010. According to the UN Population Fund, the country's maternal mortality rate was 110 deaths per 100,000 live births in 2010. Limited access to maternal health care for women residing in rural and remote areas contributed to the high maternal mortality rate.

Between 2006 and 2010, the UN Demographic and Health Surveys reported 73 percent of women between the ages of 15 and 49 used contraceptives. Planned Parenthood Global reported that among women living in legal unions, 47 percent of indigenous women used contraceptives. According to a November report by Planned Parenthood Global and a coalition of local organizations, emergency contraception was supposed to be available and free of charge in all public health facilities, but the availability of emergency contraception was inconsistent. The report stated that the government has not implemented programs to inform and educate women on the issue or promote the delivery of emergency contraception.

Discrimination: The constitution affords women an array of economic, political, and social rights. The law stipulates that the government should formulate and implement policies to achieve gender equality, incorporate a gender focus into plans and programs, and provide technical assistance to implement the law in the public sector. In practice, however, women often did not have equal rights. Societal discrimination against women was pervasive, particularly with respect to

educational and economic opportunities for older women and for those in the lower economic strata. Women on average earned 39 percent less than men for comparable work. They tended to be employed in the informal sector or as domestic workers and thus enjoyed less stability and earned lower wages. Indigenous women faced triple discrimination on the basis of gender, ethnicity, and reduced economic status.

The government combated discrimination against women and other vulnerable groups through several programs, including the “React Ecuador” media and outreach campaign.

Children

Birth Registration: Citizenship is acquired through birth in the country, birth to an Ecuadorian mother or father abroad, or by naturalization. The Social Registry, the Ministry of Social and Economic Inclusion, and the Child and Family Institute continued to promote the “Put Your Name Down” campaign, to register children throughout the country. In 2009, according to the Observatory of the Rights of Children and Adolescents, there were 300,000 unregistered children in the country. A 2010 UNICEF publication estimated that 10 percent of children under age five in the country were unregistered. The Afro-Ecuadorian population showed registration rates significantly lower than those for the general public.

While the law prohibits schools from requesting civil registration documents for children to enroll, some schools, mostly public schools, continued to require them. Other government services, including welfare payments and free primary health care, require some form of identification.

Education: According to the constitution, education is obligatory through ninth grade and free through 12th grade. However, costs associated with school, such as for uniforms and books, and a lack of space in public schools prevented many adolescents from attending school. In some provinces public schools denied entry to students due to a lack of space.

Child Abuse: According to the Ministry of Economic and Social Inclusion, in 2009 four out of 10 children were sexually abused. Information from provincial governments indicated that a high number of children suffered abuse. In the province of Loja, 32 percent of children were reportedly victims of abuse, 25 percent of whom were victims of sexual abuse, normally occurring in environments of alcoholism, drug addiction, and extreme poverty. The National

Police Specialized Department for Children and Adolescents (DINAPEN) made 625 arrests for sexual crimes against children nationally. Projects sponsored by local NGOs reported that children living in the streets, many from poor indigenous families, suffered from exploitative conditions.

Child Marriage: The legal age of marriage is 18, although civil law allows minors over 16 to get married if they have the authorization and consent from both parents or have been legally emancipated. UNICEF statistics indicate that 16 percent of female adolescents age 15 to 19 were married or in conjugal union during 2000-10. A 2004 UN report estimated that 7 percent of males between 15 and 19 were married, divorced, or widowed.

Sexual Exploitation of Children: The law prohibits child pornography, with penalties of six to 16 years' imprisonment. The age of consent is 14. The penalty for commercial sexual exploitation of children is 16 to 25 years' imprisonment. Commercial sexual exploitation of minors remained a problem. While adult prostitution was legal, brothel owners did not check ages of their employees. As a result, some children worked in prostitution.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

There were no reports of anti-Semitic acts. There was a small Jewish community, including an estimated 250 families in Quito and 30 families in Guayaquil, according to the local synagogues.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution and laws prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel

and other transportation, access to health care, or the provision of other state services. The interagency National Council on Disabilities oversees government policies regarding persons with disabilities. Although the law mandates access to buildings and promotes equal access to health, education, social security, employment, transport, and communications for persons with disabilities, the government did not fully enforce it. The law requires that 4 percent of employees in all public and private enterprises with more than 25 employees be persons with disabilities.

In August the National Assembly approved a law granting persons with disabilities the right to cost and fee reductions from several public and private entities, including utilities, transportation, and taxes. The law stipulates rights to health facilities and insurance coverage, increased access and inclusion in education, and to a new program for scholarships and student loans for persons with disabilities. The law provides for special job security for those with disabilities or those who care for a person with disabilities, and entitles employees who acquire a disability to rehabilitation and relocation. The law also creates a new national subsystem, intended to evaluate and register persons with disabilities. Many of the benefits in the law are transferable to a parent or primary caregiver. The law also gives the Ombudsman's Office responsibility for following up on alleged violations of the rights of the disabled and lays out a series of fines and punishments for lack of compliance with the law. Some in the disabled community criticized the reregistration and evaluation process--including a national identification card, identifying the type and percentage of the disability that an individual has--as unnecessary and impossible to achieve under the timeframe given in the law.

The government continued its Ecuador without Barriers campaign, led by Vice President Lenin Moreno, which created jobs for persons with disabilities, provided funding to municipalities to improve access to public buildings, and opened training and rehabilitation centers. The initiative also monitored the degree of compliance by companies that hire persons with disabilities. The caregivers of persons with severe disabilities received a government monthly subsidy of \$240. The government reported in its Universal Periodic Review (UPR) that it had created 10,000 new jobs for persons with disabilities and their families between 2008 and 2011.

The law directs the electoral authorities to provide access and facilitate voting to persons with disabilities, and international observers commended the government's accommodations for persons with disabilities in the 2011 national referendum. During the year the CNE promoted disability access in the electoral process

through public outreach and workshops to train disabled election observers. Additionally, the CNE reached agreements with transportation companies to ensure that persons with disabilities were provided access to the 2013 elections.

National/Racial/Ethnic Minorities

Afro-Ecuadorian citizens, who accounted for approximately 7 percent of the population according to the 2010 census, suffered pervasive discrimination, particularly with regard to educational and economic opportunity. The constitution declares the state to be plurinational and affirms the principle of nondiscrimination by recognizing the rights of indigenous, Afro-Ecuadorian, and Montubio (a rural, farming population recognized as an independent ethnic group) communities. It also mandates affirmative action policies to provide for the representation of minorities. Since 2009 the government has implemented a national plan to eradicate racial discrimination and exclusion based on ethnic and cultural differences. According to the government's UPR report, the net enrollment of Afro-Ecuadorians increased in 2011 from 88.3 to 93.5 percent in primary education and from 44.2 to 58.5 percent in middle school. According to 2010 statistics provided by the organization Fundacion Afroamerica XXI, the Afro-Ecuadorian community had illiteracy rates over 12 percent and an unemployment rate of 11 percent, compared to 9 percent and 6 percent nationwide respectively. Only 4 percent of Afro-Ecuadorians held university degrees.

Afro-Ecuadorian organizations noted that, despite the absence of official discrimination, societal discrimination and stereotyping in the media continued to affect them and resulted in barriers to employment, education, and housing. For instance, Afro-Ecuadorians continued to assert that police stopped them for document checks more frequently than they stopped other citizens and that employers often would not interview persons whose job applications carried Afro-Ecuadorian photos. Isabel Orellana, provincial coordinator of the organization Black Women of El Oro, stated in an August 7 press conference, "the racial discrimination we live in is made visible in the workplace, where those of African descent are not being included."

Indigenous People

According to the 2010 census, 7 percent of the population self-identified as indigenous. Indigenous organizations estimated that up to 30 percent of the population maintained their indigenous cultural identity and lived in indigenous communities. The vast majority of indigenous citizens resided in rural areas,

including the highlands and Amazonian provinces. Indigenous persons continued to suffer discrimination at many levels of society and, with few exceptions, were at the bottom of the socioeconomic scale.

The law recognizes the rights of indigenous communities to hold property communally, and titled land in many cases to the indigenous community. In other instances indigenous groups managed a reserve that the government set aside for biodiversity protection. The government worked with indigenous communities to help them gain titles to their lands.

The constitution grants indigenous persons and communities the right to be consulted and participate in decisions about the exploitation of nonrenewable resources that are located in their lands and that could affect their culture or environment. Indigenous groups claimed that laws covering mining, water resources, and hydrocarbon resources did not take indigenous viewpoints sufficiently into account and furthermore intruded upon indigenous autonomy over their lands and resources. Although the Constitutional Court required the government to consult with affected communities on water issues before enacting new laws, there was no clear mechanism for consultation, and not all communities participated.

The constitution allows indigenous persons to participate in the benefits that natural resource extraction projects may bring and to receive compensation for any damages that result. In the case of environmental damage, the law mandates immediate corrective government action and full restitution from the responsible company, although some indigenous organizations asserted a lack of consultation and remedial action.

Indigenous groups lobbied the government and mounted protests in attempts to win a greater share of oil revenues and a greater voice in natural resource and development decisions. Some indigenous leaders faced criminal charges for participating in social protests (see section 2.b.).

Although indigenous persons have the same civil and political rights as other citizens, some of their leaders reported discrimination in access to higher education and employment. The constitution strengthens the rights of indigenous persons; it declares the state plurinational, recognizing Kichwa and Shuar as “official languages of intercultural relations,” and specifically recognizes indigenous justice. However, the lack of a clearly defined relationship between indigenous

justice and the regular justice system led to legal conflicts between the government and indigenous leaders.

Widespread environmental damage, in part due to deforestation and petroleum production, constituted a serious problem. Settlers, including those from other indigenous groups, drug traffickers, and loggers, illegally encroached into indigenous territory. Corrupt local officials, a lack of political will, and divisions among and within indigenous communities undermined indigenous efforts to stop the flow of illegally harvested timber. Small-scale mining, often on the part of indigenous communities themselves, also contributed to serious environmental damage.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The constitution includes the principle of nondiscrimination and the right to decide one's sexual orientation as a right. The law also prohibits hate crimes. Although the law prohibits discrimination based on sexual orientation, gay, lesbian, and transgender persons continued to suffer discrimination from both public and private bodies. LGBT organizations reported that transgender persons suffered more discrimination because they were more visible. A study by the NGO Organization of Ecuadorian Lesbian Women indicated that 47 percent of lesbians surveyed have been the victims of discrimination because they chose not to hide their sexual orientation. LGBT rights organization Equidad estimated that 38 percent of their clients suffered discrimination, but only 8 percent reported such incidents to authorities. LGBT groups claimed that police and prosecutors did not thoroughly investigate deaths of LGBT individuals, including when there was suspicion that the killing was because of sexual orientation or gender identity.

LGBT organizations continued to report that private treatment centers confined LGBT persons against their will to "cure" or "de-homosexualize" them, although such treatment is illegal. The clinics reportedly used cruel treatments, including rape, in an attempt to change LGBT persons' sexual orientation. The Ministry of Justice, Human Rights, and Religious Affairs reported that it had closed 16 illegal clinics since January 2011, including eight during the year. The ministry estimated there were approximately 50 illicit clinics, but the clinics were difficult to identify and track. On February 8, LGBT activist Paola Concha maintained that there were 285 illegal clinics in the country.

Members of the LGBT community continued to report that the government frequently denied their right of equal access to formal education. LGBT students were sometimes discouraged from attending classes (particularly in higher education) or denied diplomas at the end of their studies. The LGBT population involved in the commercial sex trade reported abusive situations, extortion, and mistreatment by security forces.

Other Societal Violence or Discrimination

The constitution specifically prohibits discrimination directed at persons with HIV/AIDS. There was no societal violence against persons with HIV/AIDS. However, NGOs reported that individuals with HIV/AIDS believed they experienced discrimination, including on issues such as equal employment opportunities and access to appropriate health care.

Vigilante justice remained a problem. Such violence occurred particularly in indigenous communities and poor neighborhoods of major cities where there was little police presence. On May 29, the community of Salasaca in the province of Tungurahua attacked Paul Édison Chacha Toaza, accusing him of robbery. The community meted out a “purification” punishment, which consisted of a severe beating.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, with some exceptions, protects the rights of workers to form and join trade unions of their choice, conduct legal strikes, and bargain collectively.

All private employers with a union are required to negotiate collectively when the union so requests. The law requires a minimum of 30 workers for the creation of an association, work committee, or labor union, and law does not allow foreign citizens to serve as trade union officers. The law prohibits employers from using domestic outsourcing, including subcontracting, third party, and hourly contracts to avoid providing employees the right to form a union, and the right to employee benefits.

The law protects the right of private-sector employees to strike on their own behalf, and conduct three-day solidarity strikes or boycotts on the behalf of other

industries. In some industries during a legal strike, workers may take possession of a factory or workplace (thus ending production at the site) and receive police protection during the takeover. In most industries the law requires a 10-day “cooling-off” period from the time a strike is declared before it can take effect. In the case of the agriculture and hospitality industries, where workers are needed for “permanent care,” the law requires a 20-day “cooling-off” period from the day the strike is called, and workers cannot take possession of a workplace. During this time workers and employers must agree on how many workers are needed to ensure a minimum level of service, and at least 20 percent of the workforce must continue to work in order to provide essential services. The law provides that “the employer may contract substitute personnel” only when striking workers refuse to send the number of workers required to provide the minimum necessary services.

The law prohibits employers from using discriminatory criteria in hiring, discriminating against unions, and retaliating against striking workers and their leaders. The law prohibits the dismissal of workers from the moment a union notifies the labor inspector of its general assembly until the formation of its first executive board, being the first legal steps in forming a union. The employer is required to pay compensation and fines to a worker fired because of union activity. However, employers are not required to reinstate workers fired for union activity.

The law restricts the right to collective bargaining and striking of public-sector workers in “strategic sectors.” Such sectors include workers in the health, environmental sanitation, education, justice, firefighting, social security, electrical energy, drinking water and sewage, hydrocarbon production, fuel processing, transport and distribution, public transportation, and post and telecommunications sectors. Workers in these sectors are prohibited from forming unions, bargaining collectively, and striking. Only one union is available to public-sector employees. Although the vast majority of public-sector workers maintained membership in labor-sector associations, such associations are not allowed to strike or bargain collectively. Some of the sectors defined as strategic exceed the International Labor Organization (ILO) standard for essential services. Workers in these sectors attempting to strike may face charges with penalties of between two and five years’ imprisonment.

In practice, government efforts to enforce legal protections of freedom of association and the right to collective bargaining were often inadequate and inconsistent. The process to register a union, which formerly took only a few days, now often takes weeks or longer and is much more complicated, inhibiting union registration. Individual workers still employed may take complaints against

employers to the Labor Inspection Office or to courts charged with protecting labor rights if they are no longer employed. Unions may also take complaints to a tripartite arbitration board established to hear these complaints. In practice, these procedures were often subject to lengthy delays and appeals.

Government enforcement of labor laws sometimes failed to deter employers from retaliating against workers for organizing. Labor organizations reported eight cases during the year of workers being fired for union activities in banana plantations. Although there were no reports of harassment or charges of terrorism filed by the government against labor leaders for their involvement in strikes or other protest activity as occurred in 2011, labor organizations reported that government harassment during 2011 had a chilling effect on labor protests during the year.

Labor organizations reported that, although illegal, some companies used outsourcing or domestic contract labor to avoid hiring workers with the rights to organize, form unions, and bargain collectively.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. However, the government did not always effectively enforce the law.

Two law enforcement units led government efforts to combat trafficking-in-persons, including forced labor: the Anti-Trafficking Police Unit (ATPU), which is dedicated to combating all types of trafficking cases; and the DINAPEN, which is a specialized unit that focuses on crime against children, including trafficking cases. DINAPEN took the lead, worked in coordination with the ATPU, or was involved in approximately 50 percent of the forced-labor rescues during the year. The ministries of labor and of economic and social inclusion and the Minors' Tribunal enforce child labor laws. During the year these units rescued 19 children from forced labor. Since 2011, with support of NGOs, the government has increased the funding and training of these units. However, resources remained insufficient to address forced labor fully.

Reports of forced labor of children (see section 7.c.) and women persisted: migrants, refugees, and indigenous persons were particularly vulnerable. Women most frequently were reported as victims of forced labor while working as domestic servants. There were reports that some Colombian migrant workers were victims of forced labor, reporting working conditions ranging from labor

exploitation (also see section 7.d.) to being forced into debt for food and accommodation in palm oil plantations.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum working age for minors at 15 for all types of labor and the maximum hours a minor may work at six hours per day, five days per week. Employers of minors who have not completed elementary school are required to give the minor two additional hours off from work to complete his or her studies. The law requires employers to pay minors the same wages received by adults for the same type of employment. The law prohibits minors under the age of 18 from working in “dangerous and unhealthy” conditions. The law lists 93 economic activities that qualify as dangerous and unhealthy, including slavery, prostitution, pornography, and drug trafficking. Additionally, the law includes work that is “likely to harm the health, safety, or morals of a child,” including work in mines, garbage dumps, slaughterhouses, livestock, fishing, textiles, logging, domestic service, and in any work environment requiring exposure to toxic or dangerous substances, dust, dangerous machinery, or loud noises.

The law establishes penalties for violations of child labor laws, including fines and closure of the business. Fines for violations of child labor laws range from \$50 to \$300 for parents or guardians, and \$200 to \$1,000 for employers hiring children younger than 15. The law authorizes labor inspectors to conduct inspections at workplaces including factories, workshops, workers' homes, and any other location when they consider it appropriate or when an employer or worker requests an inspection.

The ministries of labor and of economic and social inclusion and the Minors' Tribunal enforce child labor laws. According to the Ministry of Labor, it found 73 cases of child labor and 223 children removed from labor as the result of labor inspections during the year.

The government continued the “Ecuador without Child Labor by 2015” program, aimed at eliminating all forms of illegal child labor. The program involved multiyear campaigns specifically targeting child labor in landfills, the flower industry, and begging. In May 2011 the government achieved its goal with respect to landfills when it inspected all of the landfills in the country and found no

children working in any of them. The program worked with families to enroll children in school while also providing the families with financial assistance to supplement the income that was lost by placing the children in school. The program was also successful in removing many children from the streets where they often worked as street vendors or beggars.

According to a study published during the year by INEC analyzing data from 2003-10, child labor dropped 46 percent between 2003 and 2010, from 13 percent of children working in 2003 (499,206) to 7 percent of children working in 2010 (269,881). Approximately half of the children working in 2010 were also attending school. According to UNICEF and the ILO, the official number of children working during the year was approximately 230,000.

According to several labor organizations and NGOs, child labor in the formal employment sectors has been steadily on the decline for many years and according to these groups, it was rare in virtually all formal sector industries due to an increased number of government inspections, improved enforcement of government regulations, and self-enforcement by the private sector. For example, in the past several years, banana producers worked with the Ministry of Agriculture and unions on a plan to eliminate child labor, forming committees to certify when plantations used no child labor. These certification procedures do not apply to informal sector, family-run banana farms.

However, child labor remained a problem in the informal sector, which accounted for approximately 40 percent of jobs in the country. In rural areas children were most likely to be found working in family-owned farms or businesses, including banana and rose farms. For example, it was reported that minors continued to account for 10-20 percent of the total labor force among small to medium-size banana producers, although labor organizations reported that children were largely removed from the most heavy and dangerous work. Additionally, there were reports of rural children working in small-scale, family-run brick-making and gold-mining operations. Some NGOs believed that children were likely to have been recruited by militias and gangs near the northern border to transport drugs. In urban areas many children under age 15 worked informally to support themselves or augment family income by street peddling, shining shoes, or begging.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The minimum monthly wage was \$292. The official estimate of the poverty level was \$74.79 per month.

The law limits the standard work period to 40 hours a week, eight hours a day, with two consecutive days of rest per week. Underground workers, such as miners, are limited to six hours a day and may only work one additional hour a day with premium pay. Premium pay is 1.5 times the basic salary for work done from 6:00 a.m. to 12:00 p.m. Work done from 12:00 a.m. to 6:00 a.m. receives twice the basic salary, although workers whose standard shift is at night receive a premium of 25 percent instead. Premium pay also applies to work done on weekends and holidays. Overtime is limited to no more than four hours a day and a total of 12 hours a week. Mandatory overtime is prohibited. Workers are entitled to a continuous 15-day annual vacation, including weekends, plus one extra day per year after five years of service. Different regulations regarding schedule and vacations apply to live-in domestic workers. The law provides for the health and safety of workers, and outlines health and safety standards. Foreign and migrant workers are subject to the same labor standards. Enforcement of labor laws is the responsibility of the Ministry of Labor Relations and the Social Security Department of Hazards. The government had approximately 280 inspectors, who were in charge of enforcing all labor laws, including those for child labor. The Ministry of Labor conducted 23,773 inspections for labor violations during the year, but the inexperience of newly hired inspectors hampered enforcement efforts.

Labor inspections may be conducted by appointment or after a worker complaint. If a worker requests an inspection and a Ministry of Labor Relations inspector confirms a workplace hazard, the inspector then may close down the workplace. Labor inspections generally occurred because of complaints, not as a preventive measure, and inspectors could not make unannounced visits. In some cases, violations were remedied, but other cases were subject to legal challenges that delayed changes for months. In practice penalties were not sufficient to deter violations and were often not enforced.

Various NGOs charged that the government rarely investigated complaints by migrants and refugees. Labor leaders and business owners also claimed corruption was common among the inspectors. The Ministry of Labor Relations continued its labor rights enforcement reforms by increasing labor inspections, and increasing the number of workers protected by contracts, minimum wage standards, and registration for social security benefits.

The government also closely monitored the procedures used by the private and public sectors regarding hiring, firing, pensions, profit sharing, collective bargaining, and the disabled and their access to the labor market. The Ministry of Labor reported that through its campaign to register workers with social security, it informed 300,000 employees of their labor rights. During the year the government temporarily closed and fined a number of media outlets based on violations of labor laws, specifically, not registering employees for social security and not providing other employee benefits. Additionally, a 2011 referendum approved jail terms for employers who do not comply with the requirement of registering domestic workers with the Social Security Administration. However, as of the end of the year, the National Assembly had not passed authorizing legislation.

Most workers worked in the large informal sector and in rural areas and were not subject to the minimum wage laws or legally mandated benefits. Occupational health and safety issues were more prevalent in the large informal sector. The labor code singles out the health and safety of miners; however, safety rules were not enforced in the small mines that made up the vast majority of enterprises in the mining sector. Migrants and refugees were particularly vulnerable to hazardous and exploitative working conditions.

Reports of abuses and little government oversight in the palm-oil industry continued, where many workers were Colombian refugees and other migrants, as well as fugitives from the law. The abuses included excessive work hours, very low or no wages, and inhumane living conditions. Additionally, some labor abuses were found in small to mid-sized banana farms, unlicensed, usually family-run flower farms, and small-scale gold-mining industries.