CRISIS, COLONELS & CONSTITUCIONALISMO:
A Study of the Quality of Democracy in Ecuador

Amy L. Becerra

> "El correcto funcionamiento de la democracia es el primer paso para que el Ecuador supere sus problemas y salga de la crisis institucional… Mi presencia es señal de que los gobiernos y pueblos de América sienten que lo que está en peligro no solo es la democracia en el Ecuador sino la democracia de todas las Américas. Sentimos los embates contra la democracia de nuestras naciones."[1]
>
> "The correct functioning of democracy is the first step for Ecuador to overcome her problems and to escape the institutional crisis… My presence is a sign that the governments and peoples of America feel that what is in danger is not only democracy in Ecuador but democracy in all of the Americas. We feel the attack on democracy in our nations."
>
> —César Gaviria, Secretary General, Organization of American States

I. INTRODUCTION

The recent and startling events of the overthrow of Ecuador's president, Jamil Mahuad, January 21, 2000, accompanying the military-incited march of thousands of indigenous people upon the capital city and Government Palace, made international headlines. Indian farmers joined Colonels Lucio Gutierrez and Fausto Cobo, commander of Ecuador's military academy, and their group of more than 50 junior military officers to seize the National Congress, proclaim a "junta of national salvation,"[2] and force the overthrow of the country's elected president.[3]

The *golpe de estado* was Latin America's first military overthrow of a sitting civilian president in more than a decade. In the frenzied hours following the coup, the Ecuadorian armed forces scrambled to fill the presidential vacancy in a manner that, to international observers like the Organization of American States (OAS) and the United States, would appear sufficiently "constitutional." Peter Romero, the U.S. State Department's top official for Latin America and a former ambassador to Ecuador, described the situation as "chaos."[4] The OAS and the Clinton administration immediately condemned the military coup, with the latter threatening political and economic sanctions against any military-led government. General Carlos Mendoza, the chief of staff of Ecuador's armed forces, abruptly announced the dissolution of the three-man junta he had briefly led,[5] "in order to prevent the international isolation of Ecuador."[6] Civilian government was restored, and a stunned Vice President Gustavo Noboa donned the presidential sash—Ecuador's fifth president in four years.

The insurrection against Mahuad arose in Ecuador's worst economic crisis in more than 70 years. Inflation has been more than 70 percent for its second consecutive year, the *sucre* has depreciated by 260 percent, and Ecuadorians' living standards have been steadily worsening due to natural and financial disasters; 62.5 percent of citizens live in poverty and 15 percent are

---

[1] *La OEA quiere apoyar la consolidación democrática* (Feb. 16, 2000) <http://www.elcomercio.com/ecuador/body_ecuador.html>.

[2] The triumvirate junta consisted of Antonio Vargas, leader of CONAIE (Confederation of Indigenous Nationalities of Ecuador); Carlos Solorzano, a former Supreme Court judge; and Col. Gutierrez, whose leadership of the junta was quickly ousted by Gen. Carlos Mendoza.

[3] *A Warning from Ecuador: Latin American Democracy is not in mortal danger,but neither is it thriving*, ECONOMIST, Jan. 29-Feb. 4, 2000, at 23.

[4] Larry Rohter, *Ecuador Coup Shifts Control to No. 2 Man*, N.Y. TIMES, Jan. 23, 2000, at A11.

[5] Mendoza later claimed that he agreed to join the coup as a stall tactic until democratic order could be restored. He claims that the rebellious actions of the colonels who incited the protest were against express orders. Interestingly enough, a month after the coup, President Gustavo Noboa decorated Mendoza with the Medal of Professional Excellence. (*Ecuador honors general who toppled last president*, CNN.com: WORLD: AMERICAS, Feb. 25, 2000<http://www.cnn.com/2000/WORLD/americas/02/25/ecuador.coup.ap>).

[6] Rohter, *supra* note 4, at A1.

indigent.[7] Efforts to stabilize the economy were not helped by the International Monetary Fund, which first encouraged the country to default on half of its $13 billion foreign debt in September 1999, and then dallied over coming to its aid.[8] Already unpopular after freezing the life savings of thousands of Ecuadorians during a banking crisis in March 1999, Mahuad, in a radical and desperate move, declared on January 9, 2000, his intent to replace the national currency[9] with the American dollar.[10] The decision toward dollarization[11] infuriated not only the nation's trade unions and individual members of the armed forces,[12] but also the largely peasant farmer Indians, who make up more than 40 percent of Ecuador's 12.5 million people.

The Indians have returned to their villages in the surrounding provinces for now, but perhaps only for now: Vargas, their leader, has given the new government six months to improve matters or face a "social explosion" or "civil war."[13] These may not be empty threats as the coup showed that the indigenous movement has at least some support within the armed forces, many of whose junior officers are of Indian descent. Bloodshed was averted, and democratic appearances have been preserved, but "the armed forces are now clearly the arbiters of Ecuador's political life."[14]

But is the military's interventionist role in Ecuadorian politics all that unusual? Ecuador has a long history of constitutions and constitutionalism, however, a constitutional state is not necessarily the same as a democratic one. Nevertheless, experience with constitutional rule and values may be a bold first step in the establishment or evolution of a full democracy. Soldiers, garrisons, and battles for power existed in the Andean region around the modern capital of Quito long before the area was even called Ecuador, and 300 years before the first constitution was drafted. However, the question arises: can the institutions of a constitutional democracy and a politically active military coexist? Can Ecuador properly be called a democracy?

This paper presents an analysis of the quality of Ecuadorian democracy. It will examine the political and cultural background of Ecuador's constitutional history, including the role of military intervention and the increasing influence of indigenous action in political crises. Ecuador has many of the institutions necessary to maintaining a stable Latin American democracy, including a military with a constitutional mission. There is much room for improvement, however, and it is the premise of this paper that Ecuador ***is*** a democracy, albeit a developing one with weak cultural and economic foundations.

II. HISTORY OF MILITARY INTERVENTION

Since its independence from Spain in 1830, Ecuador has had nineteen constitutions.[15] From 1900 to 2000, there were fifty-seven chiefs of state, serving an average of 1.8 years each. Fifteen were extraconstitutional de facto leaders for all or part of their time in power.[16] Coups

---

[7] BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, U.S. DEP'T OF STATE, HUMAN RIGHTS REPORT FOR 1999: ECUADOR.
[8] *A Warning from Ecuador, supra* note 3.
[9] Ecuador's national currency is the *sucre*. CONST. tit. XII, cap. 5, art. 264. Technically speaking, outright dollarization would be unconstitutional.
[10] Rohter, *supra* note 4, at A11.
[11] It has not yet been resolved whether Ecuador will adopt the dollar in place of the much-devalued *sucre*, or adopt an Argentine-style currency board (in which the *sucre* is permanently pegged to the dollar and the domestic money supply limited to the level of foreign reserves). *Desperation in Ecuador*, ECONOMIST, Jan 15, 2000, at 20.
[12] In an interview with an Ecuadorian television reporter, an unidentified military officer who took part in the insurrection complained that since Mahuad took office in August 1998, the value of his salary had declined from $1,100 a month to less than $300. Rohter, *supra* note 4, at A2.
[13] *Ecuador's post-coup reckoning*, ECONOMIST, Jan. 29-Feb. 4, 2000, at 35.
[14] *A Warning from Ecuador, supra* note 3, at 23.
[15] ALEJANDRO MARTÍNEZ ESTRADA, BREVE HISTORIA DEL ECUADOR E HISTORIA DE LÍMITES (1999).
[16] SIMÓN ESPINOSA CORDERO, PRESIDENTES DEL ECUADOR (1995).

have been carried out by individual military leaders, the military as an institution, presidents, and on one occasion, Congress.[17] There have been only two periods of sustained democracy: 1948-1961 and 1979-1999.

Military intervention and rule have been recurring phenomena in the political history of Ecuador.[18] In the nineteenth century, the juridical foundations of dictatorship were firmly embedded in Ecuadorian constitutional law and endured into the 1990s, despite further reforms in the twentieth century.[19] From the outset, military elites and opposing *caudillos* determined the outcome of political development.[20] During the early republican years, military officers arbitrated regional power struggles between the predominantly agricultural and conservative *sierra* (Quito) and the more cosmopolitan and commercially oriented coast (Guayaquil).[21] With the exception of President Dr. Gabriel García Moreno (1860-1875), the most powerful Ecuadorian political figures of the nineteenth century arose from the military.[22] Presidential succession rarely gave even the appearance of a legal transfer of power through elections, and efforts to limit the presidential term and powers failed. This failure to resolve the dilemma of legitimacy and peaceful regime succession after independence resulted in military battles, rather than elections, deciding the timing of regime changes.[23]

Beginning with the nation's first president, General Juan José Flores (1830-1845), it became something of a tradition for military regimes (and some civilian), upon their accession to power, to try to legitimize their political and constitutional bases of authority. This was generally accomplished by convoking a constituent assembly (packed with political supporters) in order to draft a new constitution containing provisions that legalize, ex post facto, the existence and authority of the new regime.[24] The new constitution was then submitted to the electorate[25] in a national referendum for approval and ratification, establishing its legal authority upon adoption.[26]

The political role of the military, an important institution in most of Latin America, was more pronounced in Ecuador than elsewhere in northern South America.[27] As early as 1851, the constitution defined the military's role as "defending the independence and dignity of the Republic against all offenses or external aggression, maintaining internal order and assuring execution of the laws."[28] The 1878 Constitution provided that "military officers shall not obey orders that have as their object attacks upon the national authorities or that are manifestly unconstitutional or illegal."[29] This is significant as now the constitution not only granted military officers the discretion to determine the legality and constitutionality of civilian and superior officers' orders, but also compelled them to act upon such determinations.[30] The armed forces' already prominent role in politics was now constitutionally guaranteed: soldiers were the guardians of the constitution and the arbiters of national politics. As with other Latin American

---

[17] Ecuador Tribunal Supremo Electoral (TSE), *Elecciones y democracia en el Ecuador,* 1 EL PROCESO ELECTORAL ECUATORIANO (1989), *in* Robert E. Biles, *Democracy for the Few: Ecuador's Crisis-Prone Democracy, in* ASSESSING DEMOCRACY IN LATIN AMERICA 220, 220 (Phillip Kelly ed., 1998).
[18] ANITA ISAACS, MILITARY RULE AND TRANSITION IN ECUADOR: 1972-1992, 1 (1993).
[19] BRIAN LOVEMAN, THE CONSTITUTION OF TYRANNY: REGIMES OF EXCEPTION IN SPANISH AMERICA 203 (1993).
[20] Id. at 180.
[21] ISAACS, *supra* note 18, at 1.
[22] ESPINOSA, PRESIDENTES DEL ECUADOR *supra* note 16.
[23] LOVEMAN, *supra* note 19, at 181.
[24] This process is commonly referred to as *continuismo y legalismo*—giving the new government the appearance of respect for the constitution and the rule-of-law. *See* ALBERT S. GOLBERT & YENNY NUNN, LATIN AMERICAN LAWS AND INSTITUTIONS 35, 36 (1982).
[25] It must be remembered that for the first century of Ecuador's independence that the "electorate" consisted of European-descended, literate, male landowners—a mere 5-15% of the country's population.
[26] GOLBERT & NUNN, *supra* note 24, at 36.
[27] LOVEMAN, *supra* note 19, at 181.
[28] Id., at 191.
[29] Id., at 199.
[30] Id.

countries, Ecuador's nineteenth-century foundations of constitutional dictatorship legitimated twentieth-century political power struggles.[31]

At the turn of the century, the *Transformación Juliana* coup of 1925 marked a break with caudillistic patterns of military intervention and rule when a group of young officers installed a civilian regime to implement broad administrative, economic, and social reforms.[32] By 1931, however, with economic crisis cresting on the wave of a global depression, the civilian government was forced to resign to a dictatorship led by an army general. Military rule lasted until 1941 when war with Peru resulted in the loss of over half of Ecuador's national territory. Ecuadorian armed forces blamed their defeat on lack of preparedness and withdrew from partisan politics to concentrate on military professionalization.[33] In order to facilitate the new focus on professionalism, the Ministry of Defense added a constitutional law course to the war academy curriculum, and required that all commissioned officers graduate the Military College.[34] In addition, renewed emphasis was placed on indoctrinating soldiers with the notion that their duty lay in serving the interests of the nation over and above those of individual elected or administrative officials.[35] By withdrawing from active political intervention, the military limited itself to a role of "occasional political moderator."[36]

Two decades passed before the military coup and resulting junta government of 1963, the first instance of intervention by the military as an institution. The institutional coup was justified by the "need to defend corporate and national interests."[37] In response to civilian and internal military opposition, the junta abdicated power in 1966, but the stage had already been set for renewed military rule in Ecuador during the 1970s—the longest period of direct control by the armed forces. After the military coup of 1972, General Guillermo Rodríguez Lara (1972-1976) launched an era of military authoritarianism with a program of state-led agrarian and industrial development more ambitious than any previously proposed.[38] The Supreme Council of Government[39] (1976-1979), followed the ouster of the personalist dictator and oversaw the process of national transition to democracy.[40] As compared to other dictatorships in Latin America during the 1970s, particularly in the Southern Cone, Ecuadorians experienced a very low level of repression even referring to the martial governments as *dictablandas*, or 'milquetoast dictatorships.'[41] Not only did the dictatorships respect most political and civil rights, but a longstanding military commitment to social reform and economic modernization, coupled with Ecuador's new status as an oil exporter, oversaw a process of sustained economic and social development unmatched in Ecuadorian history.[42]

During the 1980s, the military as a whole remained loyal to the constitutional system.[43] In 1997, once again the armed forces began to assume the role of political arbiters when they consented to the dismissal of another elected president, Abdalá Bucaram.[44] The military stayed neutral but played a key role in persuading civilian legislators to work out an arrangement in

---

[31] Id., at 203.
[32] ESPINOSA, PRESIDENTES DEL ECUADOR *supra* note 16.
[33] ISAACS, *supra* note 18, at 2.
[34] Id.
[35] Id.
[36] Id.
[37] Id., at 3.
[38] ESPINOSA, PRESIDENTES DEL ECUADOR *supra* note 16.
[39] This government was a triumvirate junta composed of the army, navy, and air force commanders.
[40] ISAACS, *supra* note 18, at 4.
[41] Id., at 91.
[42] Id., at 4.
[43] *Armed Forces: Ecuador*, *available in* War, Peace, and Security Guide, Information Resource Centre, Canadian Forces College, Dep't of Nat'l Defence, 1996-1998 <http://wps.cfc.dnd.ca/links/milorg/ecu.html>.
[44] *A Warning from Ecuador, supra* note 3, at 23. Bucaram had at least been (hastily) impeached by Congress, for 'mental incapacity' and corruption.

which Bucaram would step down and the vice president would become president but immediately resign to allow the Congress to select its president as interim President until elections in 1998.[45] Today, Ecuador's most recent constitution decrees the armed forces' fundamental mission as "the conservation of the national sovereignty, the defense of the integrity and independence of the State and the guarantee of [Ecuador's] legal order."[46] Interestingly enough, a subsequent article requires the public forces (combined forces of the military and police) to be obedient and non-deliberative.[47] The same article dictates that superior officers are ultimately responsible for their orders, but obedience to orders that violate rights guaranteed by the Constitution or the law will not exonerate those who carry them out.[48]

Ecuador's military history and constitutional treatment of the armed forces throughout the nineteenth and twentieth centuries paved the way for the events and actors surrounding Mahuad's fall from power on the eve of the twenty-first century.

III. "CRISIS-PRONE" DEMOCRACY

Until January's uprising, Ecuador had been enjoying its longest period of continuous democratic rule since its transition from military rule in 1978-1979. Throughout the period, North American scholars of Latin America had ranked Ecuador ninth among the twenty nations on the Fitzgibbon-Johnson-Kelly Image-Index of Latin American democracy.[49] This index assesses the quality of democracy in a Latin American country by examining several factors including, but not limited to: free, competitive elections; civil liberties; effective representation of subordinate groups; responsive and accountable government; a military that allows the first four to happen; a political culture receptive to the ideals of democracy; and economic development sufficient to bolster the democratic process.[50] Applying this formula, one may conclude that Ecuador has the outward appearances of democracy, most of its forms, and some of its practices. Further analysis suggests that democracy is not supported by either a political elite or mass consensus, and that its practice is erratic, its success limited, and its life fragile.[51] In addition, economic crises quickly become political crises, which threaten government stability. This tension between the demands of a healthy democracy and social reality has led some Latin Americanists to refer to Ecuador as a "mixed state of democracy"[52] or a "crisis-prone democracy."[53]

Despite some scholars' beliefs that both constitutionalism and democracy have failed miserably in Latin America, it is the contention of this paper that Ecuador is in fact a constitutional state and an evolving democracy.

---

[45] Robert E. Biles, *Democracy for the Few: Ecuador's Crisis-Prone Democracy, in* ASSESSING DEMOCRACY IN LATIN AMERICA 220, 223 (Phillip Kelly ed., 1998).
[46] CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DEL ECUADOR (1998) tit. VII, cap. 5, art. 183.
[47] Id. at art. 185: "La Fuerza pública será obediente y no deliberante."
[48] Id.: "Sus autoridades serán responsables por las órdenes que impartan, pero la obedencia de órdenes superiores no eximirá a quienes las ejecuten de responsabilidad por la violación de los derechos garantizados por la Constitución y la ley."
[49] Biles, *supra* note 45, at 222.
[50] Id. The Index examines fifteen factors in assessing Latin American democracy, but for purposes of this paper, I have adopted and expanded upon Professor Biles' abbreviated analytical framework.
[51] Id.
[52] Id., at 237.
[53] Catherine M. Conaghan and Rosario Espinal, *Unlikely Transitions to Uncertain Regimes? Democracy without Compromise in the Dominican Republic and Ecuador*, 22 J. LATIN AM. STUD. 553, 570 (1990).

A. ELECTIONS

Foremost among the index's democratic indicators are elections. Traditional definitions of democracy imply the consent of the governed through free, fair, and periodic elections in which there is universal suffrage, competition, and freedom to organize and oppose.[54] Ecuador's constitution (adopted August 1998) grants citizens the right to change their government peacefully, and citizens exercise this right in practice through periodic, free and fair elections held on the basis of universal suffrage.[55] Since Ecuador's democratic transition in 1978-1979, there have been six consecutive presidential elections, several off-year congressional elections, and regular provincial and local elections.[56] Competition has been free and vigorous with presidents of very different ideologies, parties, and regions alternating in office with no military intervention.[57] On several occasions, voters have rejected presidential initiatives in national plebiscites.[58]

Ecuador took a large step toward universal suffrage when its 1929 Constitution extended voting rights to women, the first country in Latin America to do so.[59] The 1978-1979 Constitution removed the last barrier to universal suffrage and citizenship in Ecuador: literacy.[60] Voting is mandatory for literate citizens over eighteen years old and voluntary for illiterate citizens.[61] The Constitution does not permit active duty members of the military to vote.[62] The Constitution bars clergy and active duty military personnel from election to Congress, the presidency, or the vice presidency.[63] One of Ecuador's strongest democratic traits is that of holding regular, free elections and respecting the right of citizens to change their government.

However, some would argue that with many elections in Latin America there is often a change of government but not a change in the political system. To think that democracy has been achieved as a result of an election is to focus excessively on the electoral process and not see that it is only a first step toward the consolidation of a democracy.[64] International media focus exclusively on the electoral process as a panacea to democratic instability is mistaken. Elections are only threshold phenomena with respect to the complexity of the problem.[65] After a new election, for example, international commentators will color a country democratic. Then there will be a coup and the same country will be deemed authoritarian, as if there had been a huge change simply because an election occurred. One might say that the country really had not changed much as a result of either development: election or military coup. The same kinds of cultural cleavages and problems existed, suggesting a democratic regime was not actually in place.[66] Elections are an important criterion, but not the sole indicator of a nation's quality of democracy.

---

[54] SAMUEL HUNTINGTON, THE THIRD WAVE: DEMOCRATIZATION IN THE LATE TWENTIETH CENTURY (1991).
[55] CONST. tit. III, cap. 3, arts. 26-27. In relevant part: "…Los ciudadanos ecuatorianos gozarán del derecho de elegir y ser elegidos…"
[56] Biles, *supra* note 45, at 222. Incidentally, there have also been three constitutions since the transition.
[57] Id. In sequence, presidents have been populist/Christian democrat, conservative, democratic socialist, conservative, populist, Christian democrat, and Christian socialist.
[58] Id.
[59] HERNÁN SALGADO PESANTES, LECCIONES DE DERECHO CONSTITUCIONAL 67 (1996).
[60] Id.
[61] CONST. tit. III, cap. 3, art. 27: "El voto popular sera universal, igual, directo y secreto, *obligatorio para los que sepan leer y escribir, facultative para los analfabetos* y para los mayors de sesenta y cinco años."
[62] CONST. tit. III, cap. 3, art. 27: "Los miembros de la fuerza pública en servicio activo no harán uso de este derecho."
[63] CONST. tit. IV, cap. 1, art. 101, cl. 5: "No podrán ser candidates a dignidad alguna de elección popular: …Los miembros de la fuerza pública en servicio activo."
[64] David Jordan, *Latin American Constitutionalism*, *in* VII THE MILLER CENTER BICENTENNIAL SERIES ON CONSTITUTIONALISM: THE U.S. CONSTITUTION AND THE CONSTITUTIONS OF LATIN AMERICA 33, 39 (Kenneth W. Thompson, ed., 1991).
[65] Id., at 38.
[66] Id.

B. CIVIL LIBERTIES

Second in the democracy analysis is a nation's respect for civil liberties, including the freedoms of speech and press, peaceful assembly and association, religion, and movement inside and outside of a country. The concern here is that government power be limited to protect fundamental individual and minority rights from oppression by the majority. Ecuador's Constitution guarantees a broad spectrum of civil liberties. The protection of these fundamental rights is another of the country's democratic strengths.

Foremost among the fundamental civil rights guaranteed by the Constitution of Ecuador is freedom of speech.[67] There is a free and vigorous press, both print and electronic, that is critical of the government and that covers a range of views. Even during the military governments of the 1970s, the press remained free and served as a major outlet for criticism of the government.[68] With the exceptions of the Febres Cordero and Bucaram governments, there has been substantial freedom of speech since the transition to democracy in 1979. With the exception of two government-owned radio stations, all of the major media networks (television, newspapers, and radio) are locally and privately-owned. However, by law, the government can and does require television and radio networks to give free air-time to broadcast government-produced programs featuring the President and other top administration officials.[69]

The Constitution also guarantees the right of free assembly for peaceful purposes as well as freedom of association,[70] and the government generally respects these rights in practice. Public rallies and demonstrations require prior government permits, which are usually granted. Military and police forces generally do not intervene in demonstrations unless there is violence against bystanders or property, but they are always on hand and quick to respond with batons and teargas. Working-class, peasant, indigenous, and student organizations have not been totally free of government persecution, but they have enjoyed a considerable degree of freedom to organize and present their views.[71]

Freedom of religion is also guaranteed by Ecuador's Constitution.[72] While nineteenth century constitutions gave Ecuador the unique status of having been dedicated, by its president and Congress, to "the Sacred Heart of Jesus" (1873) and having made Catholicism a requirement for citizenship (1869), Ecuador's twentieth century constitutions have respected diversity of religious beliefs.[73] The government allows missionary activity and religious demonstrations by all religions despite the fact that nearly 90 percent of the citizenry considers itself Roman Catholic. To ensure separation between church and state, religious instruction is not permitted in public schools.[74]

---

[67] CONST. tit. III, cap. 2, art. 23, cl. 9: "Sin perjuicio de los derechos establecidos en esta Constitución y en los instrumentos internacionales vigentes, el Estado reconocerá y garantizará a las personas los siguientes: ...El derecho a la libertad de opinión y de expression del pensamiento en todas sus formas, a través de cualquier medio de comunicación…"

[68] Biles, *supra* note 45, at 223.

[69] BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, U.S. DEP'T OF STATE, HUMAN RIGHTS REPORT FOR 1999: ECUADOR.

[70] CONST. tit. III, cap. 2, art. 23, cl. 19: "[El Estado reconocerá y garantizará a las personas]: …La libertad de asociación y de reunion, con fines pacíficos."

[71] Biles, *supra* note 45, at 223.

[72] CONST. tit. III, cap. 2, art. 23, cl. 11: "[El Estado reconocerá y garantizará a las personas]: …La libertad de conciencia; la libertad de religión, expresada en forma individual o colectiva, en público o en privado. Las personas practicarán libremente el culto que profesen, con las únicas limitaciones que la ley prescriba para proteger y respetar la diversidad, la pluralidad, la seguridad y los derechos de los demás."

[73] ESPINOSA, PRESIDENTES DEL ECUADOR , *supra* note 16.

[74] CONST. tit. III, cap. 4, sec. 8, art. 67: "La educación pública sera laica en todos sus niveles…"

In addition to the aforementioned freedoms guaranteed by the Constitution, freedom of movement within the country, foreign travel, emigration, and repatriation are also protected.[75] The government generally respects these rights although they are usually the first to be suspended (along with freedom of peaceful assembly and association) by presidential decrees of states of emergency.[76] In 1999, President Mahuad declared several states of emergency in response to national economic crises.

By Latin American standards, Ecuador has a good record of permitting open debate and a better-than-average record for permitting organized opposition. In both the 1985 and 1995 Fitzgibbon-Johnson-Kelly Image-Indexes of Latin American democracy, Ecuador had its highest rankings in the area of freedom of speech, press, assembly, and public communications—fifth among the twenty nations—in addition to high marks for free elections.[77]

C. EFFECTIVE REPRESENTATION

The third prong of the democracy analysis is that of effective representation of subordinate interest groups.[78] This is one of the weakest areas of Ecuadorian democracy despite improvement in more recent years. Ecuador's political system is dominated by well-organized elites with substantial and effective access to decisionmakers. Despite the fact that the overwhelming majority of the population falls into the "working-class" category, popular groups are relatively few, disunited, weak, and lacking in effective access due to geographic, social, and organizational fragmentation.[79]

Few women, Afro-Ecuadorians, or indigenous people occupy senior positions in government, although no specific laws prevent women or minorities from attaining leadership positions. Women are underrepresented in politics and government, holding 16 of 123 seats in Congress, the largest proportion of seats held by women in the country's history.[80] There are currently two female cabinet members. In 1996, Rosalía Arteaga became Ecuador's first woman vice president and, after the fall of President Abdalá Bucaram in 1997,[81] spent one day as the

---

[75] CONST. tit. III, cap. 2, art. 23, cl. 14: "[El Estado reconocerá y garantizará a las personas]: …El derecho a transitar libremente por el territorio nacional y a escoger su residencia. Los ecuatorianos gozarán de libertad para entrar y salir del Ecuador."

[76] The Constitution allows the President to suspend or limit all or several specified constitutional rights in declaring a state of emergency. CONST. tit. VII, cap. 2, art. 181, cl. 6. Constitutional guarantees which may be suspended or limited include: freedom of speech; inviolability of the home; inviolability of correspondence; freedom of movement; freedom of association and peaceful assembly; freedom from self-incrimination.

[77] Biles, *supra* note 45, at 224.

[78] Id., at 222.

[79] Id., at 224.

[80] BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, U.S. DEP'T OF STATE, HUMAN RIGHTS REPORT FOR 1999: ECUADOR.

[81] In the six months following his August 1996 swearing in, Bucaram saw his popularity plummet because of the severe austerity measures he implemented in violation of his populist promises, his erratic behavior, and the obvious corruption surrounding his administration. He had become unpopular with the masses who elected him and an embarrassment to the elite. Nevertheless, he ignored calls for his resignation, and opponents appeared to be unlikely to obtain the two-thirds congressional majority required to impeach him. Instead, in the midst of popular demonstrations, the Congress removed him from office on grounds of mental incapacity (citing to the fact that even Bucaram referred to himself as "El Loco"), which required only a simple majority. The final vote was 44-34. Because the 1996 Constitution had been left deliberately unclear as to succession, Ecuador lived through several days in which three persons claimed to be president: Bucaram, Vice President Rosalía Arteaga, and the president of Congress, Fabián Alarcón, who was chosen by Congress to be the new president. After the fact, voters approved the decisions in a May 1997 plebiscite. Three-fourths supported the removal of Bucaram and two-thirds approved the selection of Alarcón as interim president. (Biles, *supra* note 45, at 222-223.) Television news cameras documented Bucaram boarding a plane in his retreat to Panamá.

nation's chief executive before being replaced by then president of Congress, Fabián Alarcón.[82] No Afro-Ecuadorians currently serve as members of Congress or in senior-level government jobs. Afro-Ecuadorian Jaime Hurtado Gonzalez was serving as a member of Congress at the outset of 1999, but in February, was shot in the head as he was walking between the Congressional Palace and the Supreme Court building in Quito.[83] Killed along with him were his nephew and his bodyguard.

The most neglected and oppressed segment of Ecuador has long been its indigenous population. While at least 85 percent of all citizens claim some indigenous heritage, culturally indigenous people make up about 20 percent of the total population.[84] Divided into numerous ethnic and language groups and isolated in rural areas, the indigenous peoples have long been difficult to organize.[85] Despite their growing political influence, Indians continue to suffer discrimination at many levels of society. With few exceptions, indigenous people are at the lowest end of the socioeconomic scale.

In the 1990s, the indigenous population became one of the most important social movements in Ecuador with its organizations time and again demonstrating their ability to mobilize massive protests. These uprisings are orchestrated to nearly paralyze the country by blocking main access roads (with boulders, burning tires, trenches, wire, or chanting crowds armed with farming tools), boycotting markets, and cutting off water supplies to urban areas. More recently, the indigenous movement has won a place in the political agenda in which indigenous peoples are not only subjects, but also active members of civil society.[86] The internationally recognized national organization of the indigenous people of Ecuador is the Confederation of Ecuador's Indian Nationalities (CONAIE), which represents the three main regions (the Amazon, *sierra*, and the coast) and works to promote indigenous rights. CONAIE leads what has become the most prominent social movement in the country. The changing role of indigenous people in Ecuadorian society remains extremely controversial and resistance by society at large to the movement can be seen spattered on urban walls in graffiti proclaiming, "Be a Patriot: Kill an Indian!"[87]

---

[82] Alarcón is currently serving a prison sentence for corruption during his interim administration. Nearly nightly reports of his appeals process, as well as coverage of his indignant protests from a private and rather comfortable cell, can be seen on national television channels.

[83] The circumstances surrounding the incident suggest a professional hit. Hurtado, a lawyer, was leader of the Popular Democratic Movement party (MDP) and a fierce opponent of Mahuad's economic austerity measures. Several theories explaining the murder were expounded, but the crime was never resolved, even after the killers were captured. The MDP at first accused Mahuad of organizing the assault because of the delay in the administration's investigation of the crime. The hired gunmen claimed they had killed Hurtado because he was organizing the training of Ecuadorians in Colombia for guerrilla warfare and drug-running. Perhaps the most convincing of the speculations was that suggesting a connection between former president (and current mayor of Guayaquil—arguably the second most powerful elected seat in the nation), León Febres Cordero. Before boarding the plane to Quito earlier that morning, Hurtado denounced Febres Cordero for corruption, particularly in regard to some properties and corporations owned by him. On a bizarre and remotely personal note, the brother of the 'lead hitman' at one time had worked for my sister-in-law's husband in Quito. Needless to say, my brother-in-law was rather worried for a few days as he had also purchased firearms for the security detail of his pharmaceutical company on several occasions from the sports equipment store belonging to the second of the three hitmen.

[84] BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, U.S. DEP'T OF STATE, HUMAN RIGHTS REPORT FOR 1999: ECUADOR.

[85] Despite the great oversimplification, it is easiest to describe Ecuador's indigenous people as either from the Andean or the Amazon regions. Indian communities in the Andes are largely Quichua-speaking peasant farmers or artisans. It is these highland groups that suffer the more immediate negative impacts of national economic crises and are most likely to march on the capital in protests. Indigenous people living in the Amazon are largely "uncivilized" and live in tribal areas or near missions. Amazon Indians are involved in the growing indigenous social movement, but are generally less affected by austere economic measures. Their primary protests are directed at the opportunistic oil and pharmaceutical companies which threaten to destroy more of their rainforest home each year.

[86] Melina H. Selverston, *The Politics of Culture: Indigenous Peoples and the State in Ecuador, in* INDIGENOUS PEOPLES AND DEMOCRACY IN LATIN AMERICA 131, 132 (Donna Lee Van Cott, ed., 1994).

[87] Id.

Ecuador finds itself in a contradictory position with respect to the indigenous population. Since independence in 1830, the political elite has strived to create a national identity and a set of institutions to support it, but the construction of a national identity is weak in the indigenous sector where Indians receive little benefit from being Ecuadorian citizens.[88] As a nation, Ecuador has attempted to develop a society that respects all the liberal concepts of democracy, including pluralism; however, most government policy is based on modernization objectives that require creation of a strong national identity and acculturation of indigenous peoples into the dominant social and economic culture.[89] Needless to say, this set of conflicting goals creates tension between the state and the indigenous communities.

Interestingly, the military has its own relationship with the indigenous population apart from the government. Since 1990 there has been increased military presence in the rural communities. The military has an official campaign of "civic action" similar to the civic action programs learned by foreign militaries at the U.S. School of the Americas, in which the military attempts to establish closer ties with the communities.[90] This project has involved the military in development projects in indigenous communities: road-building; pipe-laying for improved water access; literacy programs; health awareness programs; and immunization clinics.[91]

The indigenous movement, which previously shunned traditional politics, formed Pachakutik (meaning "cataclysmic change" in Quichua), an electoral movement which ran candidates for national, provincial, and local office in both the 1996 and 1998 elections.[92] There are currently eight Indians serving as members of Congress. Pachakutik Congresswoman Nina Pacari was elected Second Vice President of Congress, the first indigenous member to hold a top leadership rank.[93]

Indigenous members of the National Constituent Assembly,[94] and their supporters, won important constitutional protections for indigenous rights, which took effect with the 1998 Constitution.[95] Ecuador's Constitution now recognizes the rights of indigenous communities to hold property communally, to administer traditional community justice in certain cases, and to be consulted before natural resources are exploited in community territories;[96] these are in addition to those civil and political rights enjoyed by all citizens. The Constitution also guarantees bilingual, bicultural education in areas with a majority indigenous population.[97]

Indigenous members of the Assembly campaigned for constitutional recognition of Ecuador as a plurinational state, but met with strong resistance by the other members.[98] A compromise is reflected in Title I, Article 1, of the Constitution where, in addition to being recognized as sovereign, unitary, independent and democratic, the State of Ecuador is defined as

---

[88] Id., at 148.
[89] Id., at 141.
[90] Id., at 148.
[91] One can frequently view television commercials depicting happy Indians working side by side with smiling soldiers on such community projects to the patriotic tune of the national anthem and the red, yellow, and blue colors of the Ecuadorian flag.
[92] BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, U.S. DEP'T OF STATE, HUMAN RIGHTS REPORT FOR 1999: ECUADOR.
[93] Id.
[94] Of the 70 elected members of the Assembly, seven were Indians.
[95] RICARDO NOBOA BEJARANO, EN BUSCA DE UNA ESPERANZA: ANALISIS DE LA CONSTITUYENTE DE 1998 264 (1999). Dr. Noboa is a lawyer, professor, and politician. He has served as both a congressman and cabinet member. He served on the National Constituent Assembly and is well known for his newspaper columns, radio commentaries, and book defending the Assembly's existence, history and goals.
[96] CONST. tit. III, cap. 5, art. 84, cls. 1-15.
[97] CONST. tit. III, cap. 4, sec. 8, art. 69: "El Estado garantizará el sistema de educación intercultural bilingüe; en él se utilizará como lengua principal la de la cultura respective, y el castellano como idioma de relación intercultural."
[98] OSVALDO HURTADO, UNA CONSTITUCIÓN PARA EL FUTURO 83 (1998). Dr. Hurtado is a former president of Ecuador. A lawyer and professor of economics, he served temporarily as the president of the National Constituent Assembly and is considered to be one of Ecuador's foremost legal and sociology scholars.

"pluricultural and multiethnic."[99] The concepts of autonomy and self-determination for Indians are perceived by many Ecuadorians, and political elites in particular, as threatening to the integrity of the nation. However, CONAIE's concept of a plurinational state is not too radical when one considers that such states exist in various forms worldwide, including developed democracies like Canada, Switzerland, and Belgium.[100]

Despite the increased participation of women and minority groups in political and social movements in recent years, much improvement in the area of representation of subordinate groups remains. Women, Indians, and Afro-Ecuadorians are still largely underrepresented in Ecuador, weakening the nation's democratic structure.

D. DEMOCRATIC GOVERNMENT

The index's fourth criterion is democratic government, ideally one that is simultaneously representative, accountable, and sufficiently powerful to rule effectively. It should include a bureaucracy that is rational, rule-bound, merit-based, and subject to control by elected officials.[101]

Representative Government

One might argue based on previous discussion that due to near universal adult suffrage in Ecuador that the government *is* representative; but as the dearth of women, indigenous, and Afro-Ecuadorian participants in legislative, judicial, executive, and administrative bodies illustrates, the functioning of the government is *not* representative. Even the inclusion of the handful of female and minority voices currently in national government has only taken place in the last five years. Ecuadorian society is pervasively sexist and elitist, and has been so for centuries. Political parties across the spectrum commonly lack a base of participant members who can articulate working-class interests.[102] The lack of cohesion among popular interest groups further frustrates popular efforts at effective representation in Congress. The elites are better organized and more experienced politically—it is their voice which carries over the din of grassroots squabblings. Even populist leaders have long been accustomed to voicing popular discontent in order to win elections and then governing in the interests of the elite.[103]

Accountable Government

This speaks volumes to a general lack of governmental accountability. Latin American traditions of corporatism[104] are no less prevalent in Ecuador. One of the most distinctive features of Ecuadorian constitutional history is that of institutionalization of corporatist representation in the legislature. Under the 1946 Constitution, business interest groups, the press, education, agriculture, commerce, industry, and labor had appointed members of Congress.[105] Even the armed forces were allotted a legislative seat, further legitimizing the role of the military in policymaking. While this practice has been abolished, close informal ties still exist between these

---

[99] CONST. tit. I, art. 1: "El Ecuador es un estado social de derecho, soberano, unitario, independiente, democrático, *pluricultural y multiétnico*. Su gobierno es republicano, presidencial, electivo, representativo, responsible, alternativo, participativo y de administración descentralizada."
[100] Selverston, *supra* note 86, at 149.
[101] Shannan Mattiace and Roderic Ai Camp, *Democracy and Development: An Overview, in* DEMOCRACY IN LATIN AMERICA: PATTERNS AND CYCLES 3-19 (Roderic Ai Camp, ed., 1996).
[102] Biles, *supra* note 45, at 227.
[103] Id.
[104] Corporatism is a system in which a society is organized into industrial and professional (and in the case of Latin America, religious) corporations serving as organs of political representation and controlling to a large extent the persons and activities within their jurisdiction. WEBSTER'S THIRD NEW INT'L DICTIONARY 510 (1966).
[105] ESPINOSA, PRESIDENTES DEL ECUADOR , *supra* note 16.

groups and the government agencies making decisions in their areas. Hints of the old ways can still be seen, however, in the 1998 Constitution, which allows for the selection of a justice of the Tribunal Constitucional[106] by each of the following groups: mayors and provincial governors; national peasant and indigenous organizations, together with labor groups; and recognized chambers of production.[107] This suggests that the Ecuadorian government is more accountable to elites and corporate groups than to the public at large.

Sufficiently Powerful Government

In addition to being insufficiently representative or accountable, the state is arguably insufficiently powerful. Several factors contribute to the Ecuadorian government being too weak to rule effectively. The authority of the state is tenuous and the government decentralized. Some scholars see, "a political and cultural disunity based in substantial measure on the regional differences and conflicts between the coast and the *sierra* that reduce the sense of national identity and the effective reach of the national government."[108]

The government is also severely limited by lack of revenue. In trying to meet constitutional guarantees of health[109] and education,[110] the government's coffers are depleted by state-funded hospitals, medical clinics, universities, elementary and secondary schools. Tax evasion is pervasive, especially among the "robber baron" elites who commandeer most of Ecuador's export industries: bananas, oil, shrimp, coffee, pharmaceuticals, and flowers. Frequent several-month delays in receiving pay forces most state workers to balance two jobs or more. Ballooning external debt has also burdened government resources.

A weak party system and strained relations between the president and the Congress also contribute to an insufficiently powerful government. Political parties fluctuate in number from 15 to 18 in any given election year. The former military regime sought to limit the proliferation of parties by requiring official recognition; a party would lose its certification if it did not receive at least five percent of the vote in two successive elections.[111] Parties had to nominate presidential candidates because independents were not permitted on the ballot until 1992. Until 1996, presidential elections determined the political composition of Congress with each party receiving

---

[106] The Constitutional Tribunal is the highest national court for determining constitutional questions. It is composed of nine justices and divided into three chambers. Justices are appointed by the National Congress. Two justices are nominated by the President of the Republic, two by the Corte Suprema de Justicia (the Supreme Court—the highest national appellate court, its jurisdiction is civil, criminal, and administrative), and two by the National Congress. The remaining three justices are selected by special interest groups and supposedly represent "the people."

[107] CONST. tit. XIII, cap. 2, art. 275: "[Los vocals del Tribunal Constitucional] serán designados…de la siguiente manera: Uno, de la terna enviada por los alcaldes y los prefectos provincials; Uno, de la terna enviada por las centrals de trabajadores y las organizaciones indígenas y campesinos de carácter nacional, legalmente reconocidas; y, Uno de la terna enviada por las Cámaras de la Producción..."
Dr. Hernán Salgado Pesantes, Professor of Constitutional Law with the Facultad de Jurisprudencia with the Pontific Catholic University of Ecuador, Quito, and currently a justice of the Constitutional Tribunal, criticizes this constitutional entrenchment of "blatant corporatism" in his lectures. "There is no place for this in a judicial body," he claims.

[108] JOHN D. MARTZ, ECUADOR: CONFLICTING POLITICAL CULTURE AND THE QUEST FOR PROGRESS (1972) *cited in* Robert E. Biles, *Democracy for the Few: Ecuador's Crisis-Prone Democracy, in* ASSESSING DEMOCRACY IN LATIN AMERICA 220, 227 (Phillip Kelly ed., 1998).

[109] CONST. tit. III, cap. 4, sec. 4 arts. 42-43. In relevant part: "El Estado garantizará el derecho a la salud, su promoción y protección, por medio del desarrollo de la seguridad alimentaria, la provisión de agua potable y saneamiento básico…" (art. 42) "Los programas y acciones de salud pública serán gratuitos para todos." (art.43).

[110] CONST. tit. III, cap. 4, sec. 8, arts. 66-67. In relevant part: "La educación es derecho irrenunciable de las personas, deber inexcusable del Estado…" (art. 66) "La educación será… gratuita hasta el bachillerato o su equivalente." (art. 67).

[111] Biles, *supra* note 45, at 229.

a number of congressional seats proportionate to the percentage of votes received for that party's candidate.[112]

In this way, the military junta had hoped to provide a new president with a legislative majority as well as increased representation of minority interest groups.[113] In fact, the policy "forced ambitious politicians into temporary marriages of convenience with parties to which they felt no attachment."[114] Members of Congress regularly abandon their party of election for other parties or for independence, commonly referred to as a *cambio de camisetas* (change of undershirts). Although the military government tried to facilitate a transition back to a stable democracy, the pervasive political traditions of divisiveness and two-facedness still linger in practice despite subsequent constitutional and legal reform.

The National Congress has been relatively strong and assertive in the past twenty years (generally a good democratic indicator); however, no president in that time has been able to maintain a congressional majority that would allow him to pass a coherent program.[115] Ecuador's extremely loose multiparty system has made it difficult for presidents to marshal support for their policies within the legislature, and also creates incentives for presidents to bypass or ignore Congress altogether in policymaking.[116] Since the country's transition from military rule in 1979, "the record of executive-legislative relations reads like a chronicle of the ills of presidential[ism]"[117] with explosive conflicts between the two branches resulting in the teargassing of Congress, physical attacks on individual legislators, violence on the floor of the legislature, and even actions leading to the kidnapping of President León Febres-Cordero by air force paratroopers in 1987.[118]

This chronic institutional stress in Ecuador's democracy has taken its toll: "[t]he public's regard for democracy has eroded in the face of the unseemly and sometimes bizarre interaction of presidents and legislators."[119] The combination of regionalism, limited financial resources, and estrangement between the executive and legislative branches has contributed to a relatively weak and insufficiently powerful government.

Effective and Accountable Bureaucracy

Effective government is also impeded by Ecuador's largely uncontrollable and unaccountable bureaucracy. As in much of Latin America, permanent government agencies appear to have retained a colonial mentality. The bureaucracy tends to be highly legalistic, rigid and resistant to change, and to see its purpose as controlling and directing the public rather than serving it. Patronage and clientelism are strong forces in both Ecuadorian politics and agencies, which reduces competency levels and responsiveness to the public interest.[120] Nepotism and simony are regular practice. Pay is low, encouraging both corruption and a minimal commitment of time and effort. Ecuador's bureaucracy seems better fit for authoritarianism than democracy.

The issue of agency accountability becomes even more important when looking at the armed forces. To improve this area, some scholars believe the elected officials of Latin American governments (who are in turn accountable to the electorate) should control the ministry of the

---

[112] Under the 1998 Constitution, congressional representatives are elected on separate ballots. A minimum of two representatives are elected from each province. An additional representative is allowed for every 200,000 inhabitants in each province (or for any fraction over 150,000). CONST. tit. VI, cap. 1, art. 126.
[113] Biles, *supra* note 45, at 229.
[114] Id., at 230.
[115] Id.
[116] Catherine M. Conaghan, *Loose Parties, 'Floating' Politicians, and Institutional Stress: Presidentialism in Ecuador 1979-1988, in* THE FAILURE OF PRESIDENTIAL DEMOCRACY 328, 328 (Juan J. Linz & Arturo Valenzuela eds., 1994).
[117] Id.
[118] Id.
[119] Id.
[120] Biles, *supra* note 45, at 232.

interior, where police forces are.[121] The armed forces have often proven essentially unaccountable, which helps explain the relatively little change as a result of having an election and then a coup: this particular aspect of the regime is often not affected as the result of an election.[122] Without bureaucratic and institutional accountability to elected officials, democratic government is less effective.

E. MILITARY SUPPORTIVE OF DEMOCRATIC PROCESSES

In fact, the military is often the one group generally most critical to the survival of democracy in Latin America.[123] Respect by the armed forces as an institution for democratic processes is crucial. This is no exception in the case of Ecuador. A military establishment that values civilian rule and has a strong policy of nonintervention would, by North American standards, be ideal, but perhaps the best that can be expected is a military that in fact abstains from armed intervention and does not use its power to direct civilian authorities.[124] Overt military involvement in civilian politics seemed to decline in the period between the dictatorships of the 1970s and the end of the twentieth century.

The military remains autonomous, its independence enhanced by its control over various industries that bring it revenue directly. In fact, the Ecuadorian military has the most diverse business portfolio in the nation. In addition to holding the monopoly on control and regulation of air and sea transportation lines, the institution holds shares in the industries of banking, hotels, automobile manufacturing, mining, steel and metals, shrimp exporting, agriculture, banana exporting, petroleum, floriculture, and shipping.[125] Through the Directorate of Army Industries (DINE) the military owns more than 17 corporations that have no relation to the national defense.[126] While businesses run by the armed forces are considered to be those that pay the most taxes, uphold contracts, and have the highest level of efficiency, the National Constituent Assembly in 1998 resisted pressure by the Minister of Defense[127] and inserted an article in the Constitution restricting the military's economic activities to those "related to national defense."[128]

The military is a key participant in Latin American politics. Although most Latin American constitutions (including Ecuador's) proclaim that the government should be civil and republican and that the armed forces are to play an apolitical role, they also give certain special functions to the military that make it constitutionally the ultimate arbiter of national affairs.[129] The military has not only played a moderating role historically, but has been given the power to defend national integrity and preserve order.[130] In this sense, the military may be considered a fourth branch of government and as such, military intervention should not necessarily be condemned as an extraconstitutional and illegitimate act since it is an implied prerogative of the armed forces.[131] Additionally, the institutional coup d'état may serve as a mechanism for the

---

[121] Jordan, *supra* note 64, at 40-41.
[122] Id.
[123] Biles, *supra* note 45, at 222.
[124] Id.
[125] NOBOA, *supra* note 95, at 255. The military also owns TAME, a private commercial airline.
[126] Id.
[127] Id, at 257.
[128] CONST. tit. VII, cap. 5, art. 190: "Las Fuerzas Armadas podrán participar en actividades económicas relacionadas con la defensa nacional."
[129] Howard J. Wiarda & Harvey F. Kline, *The Latin American Tradition and Process of Development, in* THE CIVIL LAW TRADITION: EUROPE, LATIN AMERICA, AND EAST ASIA 604, 613 (John Henry Merryman et al. eds., 1994).
[130] CONST. tit. VII, cap. 5, art. 183: "Las Fuerzas Armadas tendrán como misión fundamental la conservación de la soberanía nacional, la defensa de la integridad e independencia del Estado y la garantía de su ordenamiento jurídico."
[131] Wiarda & Kline, *supra* note 129, at 606.

release and limitation of socioeconomic discontents and plays an integral part in Ecuador's political system.[132]

The military generally sees itself as the defender of the constitution, not its usurper. This view is confirmed by the unusual step taken by Ecuador's armed forces in October 1999 of publishing a statement in the national press accusing political authorities of undermining democracy. The statement, signed by the military command, said that, "political leaders, trade unions, and big business were putting their own interests first and neglecting the grave crisis confronting Ecuador."[133] Not only do the armed forces have the right and obligation to intervene in politics under certain circumstances, but they are urged and expected to do so by the rest of the population. Even the OAS, which strongly discouraged a military-led government after the ouster of Mahuad in January, later declared "it was the constitutional duty of the armed forces…to defend and preserve the democratic system of government and the constitutional authorities."[134]

The international community is not the only source of support for military enforcement of democratic and constitutional institutions. A substantial segment of the Ecuadorian population continues to perceive military rule as neither particularly traumatic nor bound to produce economic crisis.[135] A lingering support for military intervention and rule can be better understood when one looks at the contrast between the military regime of the 1970s, with its solid record of social and economic reforms, and its civilian successors, who have as yet been unable to revive the economy. Scholars of Latin American military regimes have called this relationship between favorable perceptions of military rule and democratic consolidation the "paradox of success."[136] This paradox of successful military rule has made for greater impatience with civilian governance.

The era of military rule is remembered by both the armed forces and the civilian population as a period of economic prosperity and commitment to national reform, creating a certain nostalgia for military rule. Intervention by the military in the 1970s challenged the dominance of political elites and stimulated a process of modernization. Military rule has been legitimized in large part by regime performance. When civilian governments have confronted political or economic crises, as with the Mahuad administration, popular frustration with the civilian political process itself mounts, often being expressed with longings for a "strong hand" or military government.[137] Military dictatorship, or even a military-supported civilian government, because of its association with relative economic prosperity and minimal repression remains a viable political alternative in Ecuador.

While maintaining armed forces that are dedicated to the constitutional order helps to strengthen and stabilize democratic institutions in Latin America, the fact that military *golpes* remain a very real possibility in Ecuador due to popular support is troubling. Army generals are no more qualified to tackle the nation's dire economic problems any more than incompetent civilian officials. Were a military government to install itself during the current crisis, severe economic measures to curb hyperinflation, along with martial law, would surely result in loss or limitation of constitutional rights and democratic institutions.

---

[132] JOHN SAMUEL FITCH, THE MILITARY COUP D'ETAT AS A POLITICAL PROCESS: ECUADOR 1948-1966, 13 (1977).
[133] *Ecuador's soldiers warn politicians*, BBC NEWS ONLINE: WORLD: AMERICAS, Oct. 26, 1999 <http:/news.bbc.co.uk/hi/english/world/americas/newsid_485000/485658.stm>.
[134] *OAS Supports Constitutional Government of Ecuador*, (OAS press release, Jan. 26, 2000) *available in* Press Releases 2000 <http://www.oas.org/en/pinfo/week/Press2000/016.htm>.
[135] ISAACS, *supra* note 18, at 5.
[136] Id.
[137] During my five-month stay in Quito in 1999, I was often surprised to hear Ecuadorians comment, whether jokingly or more seriously, on how they thought Gen. Augusto Pinochet of Chile ("now that he's out of a job") should come and lead a "nice little" dictatorship in Ecuador.

F. POLITICAL CULTURE

A nation's political culture is also important to the success or failure of a democracy. The values and beliefs about democracy among the public and elites may reinforce or weaken a democratic system.[138] The military's tendency to shape the outcomes of domestic politics is rooted in the predominant political culture of Latin America.[139] As in other Latin American countries, the colonial period in Ecuador implanted a political culture of authoritarianism, elitism, personalism, and corporatism. This tradition was reinforced by the strong influence of the Catholic Church and the military, as well as the political traditions of the Incas and other indigenous groups.[140] After independence, additional beliefs in classic democracy and republicanism, and later, socialism, Marxism, and social democracy, were introduced.

These conflicting traditions lead some scholars to suggest that the political culture of Latin American nations is not fully compatible with democracy.[141] Social institutions of church, school, and even family, do not embody democratic principles, but rather instill nondemocratic values.[142] Concerning attitudes towards power, some studies have indicated Latin Americans have a tendency to resent authority when in a subordinate position, but to exercise it strongly when in a command position.[143] Most of Ecuador's political leaders have been essentially authoritarian, in spite of an appearance of being democratic. As in colonial times, elected and appointed officials expect to receive privileged treatment and deference from others making it difficult for elites to accept the abolition of privilege necessary to the nurturing of democracy.[144] This leads to problems in establishing the rule of law.

In Ecuador, laws are often enacted but are neither observed nor enforced. Public officials and bureaucrats, who supposedly would be the first to be interested in laws being obeyed, are in fact the first to disobey laws and to conspire with private individuals in order to avoid compliance.[145] Resistance to observing the law is also reflected among the poorer, and largely Indian, masses where geographic distance and a history of exploitation dating back to the Incas, as well as to the colonial *hacienda* feudal system, influences views of the state. People try to get as many benefits as they can from the state, but at the same time do as little as possible of what the state advises or orders them to do, because they feel that it is not fair. This resistance in Ecuadorian political culture to the rule of law is further compounded by the substantial number of aspirational, or utopian, provisions contained in the Constitution that are either impossible or extremely difficult to enforce.[146] Inclusion of such obviously unenforceable constitutional duties encourages citizens to regard the constitution as an aspirational document rather than a serious limitation on governmental powers.[147] Lack of respect for the Constitution and the rule of law inhibits democratic participation in self-government.

---

[138] Mattiace & Ai Camp, *supra* note 101, at 6-10.
[139] Juan Rial, *Providing for the Common Defense: What Latin American Constitutions Have to Say About the Region's Armed Forces, in* CONSTITUTIONALISM AND DEMOCRACY: TRANSITION IN THE CONTEMPORARY WORLD 247, 247 (Douglas Greenberg et al. eds., 1993).
[140] Keith S. Rosenn, The Success of Constitutionalism in the United States and its Failure in Latin America: An Explanation, *in* VII THE MILLER CENTER BICENTENNIAL SERIES ON CONSTITUTIONALISM: THE U.S. CONSTITUTION AND THE CONSTITUTIONS OF LATIN AMERICA 53, 71 (Kenneth W. Thompson, ed., 1991).
[141] Javier Alcalde, *Differential Impact of American Political and Economic Institutions on Latin America*, *in* VII THE MILLER CENTER BICENTENNIAL SERIES ON CONSTITUTIONALISM: THE U.S. CONSTITUTION AND THE CONSTITUTIONS OF LATIN AMERICA 97, 102 (Kenneth W. Thompson, ed., 1991).
[142] Id.
[143] Id., at 103.
[144] Id.
[145] Id., at 105.
[146] Examples of such provisions include the right to live in a clean environment, ecologically balanced and free of contamination; the right to receive goods and services (both public and private) of the highest quality; the right to honor and good reputation; and the rights to free health care and education.
[147] Rosenn, *supra* note 140, at 72.

The principle of equality in democracy also requires effective participation. In Andean countries like Ecuador, however, where Indians comprise a substantial portion of the population, "there is an essential element in the conception of life, a kind of stoic fatalism, that makes people submissive and undermines their motivation to participate."[148] As a result of hundreds of years of oppression by the Incas, and later the Spanish, the Indians often feel that things are very difficult to change and they tend to accept things as they come. This deep attitude has not changed with independence or Ecuador's many constitutions. Some scholars believe that for a nation to become democratic, its people must become democratic, and to do so they must have a long tradition of participation in less democratic forms of government.[149] While in recent years, the indigenous movement in Ecuador has increased its participation in government, there is still a general lack of participation in self-government by the indigenous and *mestizo* population at large.[150] Even Ecuador as a state has a lack of experience with democracy with only two periods of peaceful transfer of elected presidents.

Democracy also has as a central assumption that human beings are rational, good, able to govern themselves, and able to elect representatives likely to be fair and to provide a reasonably good government. However, studies conducted in other Latin American countries demonstrate there is a basic distrust of both fellow citizens and of political institutions.[151] A study conducted in Ecuador showed that, on the whole, citizens show less support for democracy than do other Latin Americans; in fact, of the fourteen Latin American nations surveyed in the study, Ecuadorians had the lowest level of satisfaction with democracy.[152] Ecuador has a political culture in which democratic and authoritarian values conflict, and only time will tell whether, through citizens' increased participation in self-government, more democratic values will pervade Ecuadorian political culture among both the elite and the masses.

G. ECONOMIC STABILITY

Lastly, as a precondition to the development of democracy, a nation's economic structure is important.[153] The development of democracy is assisted by economic development.[154] Some Latin American scholars believe that economic growth, industrialization, and urbanization produce social forces that promote more participation, increased political competition, challenges to authoritarian values, and democratic vehicles such as parties, unions, and peasant organizations.[155] Others feel that democracy could more easily flourish if the nation's economic structure was more decentralized with less emphasis on industrialization and modernization.[156] These scholars would focus more on improving the rural population's welfare and education—a favorable result being the self-organization of these areas. Promotion of rural or cottage industries and cooperatives (without domination by the government or imposition of certain forms of behavior on the peasants) would best illustrate this approach.[157]

Some scholars argue that economic growth enhances the legitimacy of democracy.[158] In Ecuador, economic development came decades later than for most Latin American countries—not

[148] Alcalde, *supra* note 141, at 104.
[149] Id., at 115.
[150] Id., at 115.
[151] Id., at 103.
[152] Biles, *supra* note 45, at 234.
[153] Alcalde, *supra* note 141 at 115.
[154] Biles, *supra* note 45, at 237.
[155] Id., at 238.
[156] Alcalde, *supra* note 141, at 115.
[157] Id., at 116.
[158] Biles, *supra* note 45, at 238, *citing* ADAM PRZEWORSKI, DEMOCRACY AND THE MARKET: POLITICAL AND ECONOMIC REFORMS IN EASTERN EUROPE AND LATIN AMERICA (1991), and Juan J. Linz, *Introduction: Comparing Experiences*

until after 1950. Until that time, elites controlled the political process without much challenge. Ecuador's military regimes are generally associated with times of economic prosperity and growth—the bill for the prosperity did not arrive until civilians were in power.[159] Civilian governments have been unable to resolve economic crises. If a country's elected officials are functionally economic illiterates and economic problems are not dealt with appropriately, the legitimacy of that regime is gravely threatened.[160] In many cases, it is the failure of the economy to provide financial security, jobs, or capital to sustain effective and efficient social services that engenders social unrest and destabilizing forces within the country.[161] Because the military dictatorships of the 1960s and 1970s were not marked by heavy repression, military rule retains a positive image. As military rule remains a viable alternative, the performance of civilian regimes will be more closely scrutinized and tied to regime stability.[162] In Ecuador, according to survey data, economic performance has been directly linked to satisfaction with democracy.[163]

IV. CONCLUSION

Analysis of the quality of democracy in Ecuador suggests that the country has many of the forms and some of the practices of democracy. Free and regular elections, combined with a strong freedom of press and generally respected civil liberties, are Ecuador's strongest democratic traits. However, ineffective representation of subordinate groups and a relatively weak, unaccountable government, present serious problems. A long history of military intervention in government, particularly in times of crisis, is cause for concern as such intervention interferes with the ability of civilian governments to tackle economic and political problems. However, the military also supports democratic institutions and enhances economic development in the country, suggesting that a politically active military can coexist with the precepts of a constitutional democracy. Conflicting political traditions lead to a political culture among masses and elites alike that is resistant to democracy. It may take some time for democratic values and practices to take hold among citizens and leaders. While there are many imperfections in Ecuador's democracy, the country does indeed have a developing democracy—although a "crisis-prone" one.

The effects of dollarization remain to be seen, and while all concerned hope that the change will have a stabilizing effect on both the economy and democratic development, most are watching Ecuador with baited breath. The phantom images linger: shouting masses with angry fists beating the air; tight-lipped soldiers gripping riot shields and rifles; and the unseen eyes of international onlookers, brows furrowed; all encircling a raging bonfire. Yet another president's effigy writhes in the flames. Images of the past? Or shadows of the future?

---

with Democracy, in POLITICS IN DEVELOPING COUNTRIES: COMPARING EXPERIENCES WITH DEMOCRACY (Larry Diamond, et al. eds., 1990).

[159] Id.

[160] Jordan, *supra* note 64, at 44.

[161] Id.

[162] ISAACS, *supra* note 18, at 140.

[163] Biles, *supra* note 45, at 238.