

105TH CONGRESS  
2D SESSION

# H. RES. 353

Expressing the sense of the House of Representatives concerning human rights and due process in Ecuador.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1998

Mr. KINGSTON (for himself, Ms. BROWN of Florida, Mr. CALLAHAN, Mrs. FOWLER, Mr. TRAFICANT, Mr. WAMP, Mr. BARRETT of Nebraska, Mrs. MALONEY of New York, and Mr. DEAL of Georgia) submitted the following resolution; which was referred to the Committee on International Relations

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## RESOLUTION

Expressing the sense of the House of Representatives concerning human rights and due process in Ecuador.

Whereas the House of Representatives welcomes efforts by the Ecuadoran Congress to recognize and uphold the rule of law in Ecuador;

Whereas the Ecuadoran Congress has initiated the process to release United States citizen James Gordon Williams of Jacksonville Beach, Florida, who has been unlawfully detained and denied due process of law in Ecuador for 16 months without resolution of his case;

Whereas 800 prisoners in Ecuador have already been released in recent months because of due process concerns;

Whereas James Williams, whose business was based in Jacksonville, Florida, is not currently under indictment for any crime in the United States and has never been charged with or convicted of a crime in the United States;

Whereas the United States has concurrent jurisdiction with Ecuador over the crime with which James Williams is charged in Ecuador and this resolution will not protect Mr. Williams from any prosecution by legal authorities in the United States;

Whereas this resolution is not a determination of the guilt or innocence of James Williams;

Whereas James Williams' extended imprisonment without a trial is in violation of Ecuador's obligation under section 5 of article 7 of the American Convention on Human Rights, Pact of San Jose, Costa Rica (November 7–22, 1969), which requires the release of a detained defendant who has not received a trial within a reasonable period of time;

Whereas this resolution demonstrates that the House of Representatives supports the efforts of the Ecuadoran Congress to address the deprivation of legal rights of Americans and other prisoners in the Ecuadoran system;

Whereas, according to the 1996 Department of State Country Report on Human Rights Practices for Ecuador—

(1) “the most fundamental human rights abuse stems from shortcomings in the politicized and inefficient legal and judicial system. People are subject to arbitrary arrest; once incarcerated, they may wait years

before coming to trial unless they resort to paying bribes.” (page 434);

(2) “The [Ecuadoran] Constitution and the Penal Code provide that no one may be deprived of liberty without a written order from a governmental authority, but the authorities often violated these legal protections against arbitrary arrest or detention.” (page 436);

(3) “Human rights organizations reported occasional cases of incommunicado detention, although the law prohibits this practice. Despite provisions of the Penal Code, the police often detained suspects without the required written order. Even when an order was obtained, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. In many instances, the system was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges.” (page 437); and

(4) “The [Ecuadoran] Constitution provides for an independent judiciary. In practice, however, the judiciary is susceptible to outside pressure. . . . The law provides for internationally accepted due process rights for criminal defendants, but the authorities often did not observe these rights in practice.” (page 437); and

Whereas in a diplomatic note dated November 14, 1996, the United States “register[ed] its grave concern over the failure of the [Ecuadoran] National Police to properly notify the Consulate of Mr. Williams’ arrest,” in violation of Article 38 of the Vienna Consular Convention and further requested that “the [Ecuadoran] Ministry of Foreign Affairs investigate the reports of maltreatment [of Mr. Williams] and denial of legitimate access to legal counsel and provide the results of its investigation to the Embassy” and the Ecuadoran Government has not responded to the diplomatic note: Now, therefore, be it

1       *Resolved*, That the House of Representatives de-  
 2 nounces the disregard for and violation of legal and human  
 3 rights within the Ecuadoran judicial system of United  
 4 States citizen James Gordon Williams of Jacksonville,  
 5 Florida, and any other persons who have been held with-  
 6 out cause or deprived of due process of law and supports  
 7 action by the Ecuadoran legislature to address these prob-  
 8 lems, including by means of the release of Mr. Williams  
 9 to the United States.

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